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THE RIGHT TO DEVELOPMENT

Written statement submitted by the Transnational Radical Party,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[3 February 1999]

1. The fact that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing has been proclaimed numerous times by various United Nations bodies. At last year's session, the Commission on Human Rights also recognized that the "Declaration on the Right to Development constitutes an integral link between the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action through its elaboration of a holistic vision integrating economic, social and cultural rights with civil and political rights" and urged "all States to eliminate all obstacles to development at all levels, by pursuing the promotion and protection of economic, social, cultural, civil and political rights and by implementing comprehensive development programmes at the national level, integrating these rights into development activities, and by promoting effective international cooperation" (Commission resolution 1998/72).

2. However, certain States continue to deny fundamental human rights on the grounds that these rights are incompatible with the right to adequate economic and social development. This position, which fails to understand that promoting and protecting all human rights are a necessary precondition to sustainable development, is often based on excluding any participation of an individual in public life, thus contradicting the affirmation of the Commission that "effective popular participation is an essential component of successful and lasting development" and that "the human person is the central subject of development and that development policy should therefore make the human being the main participant and beneficiary of development" (resolution 1998/72).

3. The Transnational Radical Party wishes to address this issue through four examples: the recent economic and political development in Viet Nam, the collapse of the economy of the People's Democratic Republic of Korea and China's development of Tibet, East Turkestan and Inner Mongolia. In all these cases, development schemes resting on the failure to honour the fundamental rights and freedoms have not provided an adequate and fair distribution of resources and are economically and socially unsustainable. In other words, one or all the three factors necessary for the achievement of sustainable human development - the government, civil society and enterprises - and therefore also the dynamics between them failed to or was not allowed to fulfil its function of enabling the people to develop their potentials and to elevate their standard of living.

4. Viet Nam has stagnated for many years in poverty and backwardness. The principle of democratic centralism and the one-party totalitarian State system appear to have favoured the development of corruption and have represented a barrier to building prosperity in Viet Nam. Although the unexpected release last year of some of the best-known political prisoners in Viet Nam and the newly-installed Communist Party leadership were promising steps, it seems they were only a ploy to reduce international pressure on Hanoi for its human rights practices, and to obtain more financial aid for the ailing economy. In 1998, arbitrary detention in sub-standard prison camps continued, press freedoms remained strictly curtailed, independent associations and trade unions were not allowed to operate, and little progress was made in legal reform.

5. Vietnamese farmers continued to demonstrate their anger over rampant corruption, punitive taxation, unfair rice prices, land disputes and compulsory labour contributions to national infrastructure projects. In March 1998, at least nine local people were convicted for disturbing public order during the January clashes in Dong Nai province. In July, the People's Court in Thai Binh sentenced more than 30 local people, whom the Government termed "extremists", to prison terms for inciting people to disrupt public order during uprisings in the province in November 1997. In March an anti-corruption ordinance was passed that contained provisions requiring officials to declare their assets, but a draft law to facilitate the filing of complaints by citizens against local officials failed to pass in the National Assembly. In an effort to control information about the regional economic crisis and its impact on Viet Nam, the Ministry of Culture continued to implement a 1997 press edict that prohibited media coverage of the banking system and instructed editors to tone down critical economic coverage.

6. The Hanoi regime continued its systematic elimination, harassment and suppression of the voices demanding freedom of speech and democratization of the country. The dissidents Ha Si Phu, Bui Minh Quoc and Tieu Dao Bao Cu, and their families were repeatedly subjected to attacks and placed under house arrest. In an effort to mute critics within its own ranks, the Vietnamese Communist Party expelled Tran Do, a retired general, at the beginning of 1999, after he repeatedly asked the Party's leadership to make reforms, democratize the country and hold free elections. On 6 January 1999, the regime executed two men, Huynh Te Cam and Tran Van Thuan, accused of plotting to topple the Communist regime. These are clear signals that the authorities of the Socialist Republic of Viet Nam are not only neglecting their obligations under the two International Covenants on Human Rights, but also refuse to understand that only a policy of deep political and economic reform, the full establishment of the rule of law and opening up to a market economy and competition can contribute to the progressive improvement of the grave situation of this country.

7. The People's Democratic Republic of Korea has been experiencing similar political and economic development in the past decades. Its failed economic and agricultural policies under the totalitarian Communist regime undoubtedly contributed decisively to the tragic consequences of the natural disasters of 1995-1997. The omnipresent famine, starvation and energy crisis has continued to deteriorate for four years now. Industrial production is at a standstill. Despite the gravity of the situation, in which an estimated 30 per cent of children are suffering from severe malnutrition and millions of people are at risk, the authorities keep their people extremely isolated and put restrictions on visits to the country and on access to impartial information, preventing the assessment of the exact scale of the famine, as well as proper monitoring of the food aid given. Some NGOs - the International Committee of the Red Cross and Médecins Sans Frontières - and United Nations agencies - notably the United Nations Development Programme - continue to provide humanitarian aid and improve agricultural productivity through concrete projects. However, in view of the repeatedly demonstrated unwillingness of the Pyongyang regime to start any serious political and economic reforms, there are chances of improving the situation substantially.

8. China has signed the International Covenants on Human Rights. China has nonetheless taken the position that the right of its citizens to adequate food and shelter outweigh all other human rights. In practice, however, China has failed to provide fair or adequate resources for the people in its annexed territories, in Tibet, East Turkestan and Inner Mongolia. The failure is directly traceable to China's failure to honour these peoples' fundamental rights and freedoms. The case of Mr. Hada, founder of the Southern Mongolian Democracy Alliance, who was arrested in 1997 on a charge of separatism and sentenced to 15 years' imprisonment and deprived of political rights for a period of four years, shows clearly the destiny of numerous political opponents who are serving long sentences in Chinese prisons. The development scheme in place in these regions, moreover, shows every sign of being unsustainable.

9. The development scheme in Tibet, East Turkestan and Inner Mongolia rests on two foundations: (i) decisions made by central planners in Beijing; and (ii) population transfer of Chinese settlers into these regions. These two foundations ensure that Tibetans, Uighurs and Mongols do not participate in development decisions regarding their homelands, and that development primarily benefits Chinese settlers, Chinese investors and the Chinese authorities. One notable example is the World Food Programme project for the Lhasa River valley, carried out without Tibetan participation. Another is the Panam project, blocked by the European Union because of the lack of Tibetan participation.

10. In August 1998, Xinhua, the official Chinese press service, announced the completion of 60 development projects in Tibet, among 62 projects that had been planned by Beijing. Tibetans did not participate in the planning or implementation of these projects. These projects, moreover, were intended primarily "to enhance foreign investment" in Tibet and were concentrated in urban areas dominated by Chinese settlers. Few reached the vast majority of Tibetans who live in rural areas. In December 1998, the Chinese authorities announced additional preferential policies to attract foreign investment to Tibet.

11. Tibetans, Uighurs and Mongols suffer discrimination in employment by the Chinese settlers and cadres who control most jobs. The average yearly income of the Uighurs, Tibetans and Mongols amounts to about one quarter to one third of the income of Chinese settlers. Inadequate and costly schools for these peoples and Chinese language requirements also prevent them from participating fully in their country's economy. Other stark indicators are education and health. In 1996, China acknowledged to the Committee on the Rights of the Child that 33 per cent of Tibetan school-age children receive no education at all compared with a mere 1.5 per cent of Chinese children. In addition, a 1996 study shows that, although the height of Chinese children has increased over the past 20 years, the height of Tibetan children is actually declining, probably owing to nutritional deficiencies and generally inadequate health care. The high cost of hospitals, moreover, puts all but the most minimal health care out of reach of most Tibetans, Uighurs and Mongols, with the result that almost 70 per cent of illnesses are fatal.

12. Chinese-controlled economic development, therefore, is not providing Tibetans, Uighurs and Mongols with an adequate or fair measure of economic opportunity. Their inability to participate in development decisions and aggressive population transfer are aimed at maintaining political control over the territories, not at raising the standard of living of Tibetans, Uighurs and Mongols as such.

13. The Transnational Radical Party calls upon the Commission to request that the open-ended working group on the right to development (Commission resolution 1998/72 and Economic and Social Council decision 1998/269) pays particular attention at its next meetings to the issue of popular participation in development, and that the working group discusses and documents the particular ways in which failure to ensure or the denial of popular participation impedes the achievement of sustainable human development and the realization of the right to development.



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SPECIFIC GROUPS AND INDIVIDUALS

Written statement submitted by the Transnational Radical Party,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[3 February 1999]

1. The outbreak of yet another increasingly brutal and costly war in the Democratic Republic of the Congo and in Rwanda has again transformed the Great Lakes region into an area of terror and human suffering. It has resulted in the killings of tens of thousands of unarmed civilians and grave violations of human rights, including extrajudicial executions, arbitrary detentions and torture, committed by all sides in these conflicts. It has reversed the trend of refugees and internally displaced persons from the first genocide in 1994-1996 returning to their homes and has dramatically increased their numbers.

2. Although the ongoing fighting and resulting continuous flight and influx of people between the States of the region makes it difficult to estimate the figures exactly, the reports of the United Nations High Commissioner for Refugees (UNHCR) suggest that there are not less than 500,000 refugees and at least as many displaced persons in the Great Lakes region and in neighbouring countries (Democratic Republic of the Congo, Rwanda, Republic of the Congo, United Republic of Tanzania, Burundi, Uganda, Zambia, Sudan, Kenya).

3. For nearly four decades, the Gréat Lake~~s~~ region has been plagued with violence and political upheaval between ethnic Tutsis and Hutus, characterized by bloodshed and massacres committed by both sides and resulting in massive exoduses and displacement of persons (Rwanda in 1959 and 1994, Burundi in 1972 and 1993, Zaire/Congo in 1993 and 1996-1997). Again during the past year, civilians bore the brunt of the conflict between the Government of Laurent Kabila and the rebel Congolese Rally for Democracy composed of a diverse coalition of anti-Kabila and national opposition groups, the Banyamulenge (Tutsis) and former dignitaries of the Mobutu era (Hutus), as well as of the conflict between the Government of Rwanda and insurgents backed by Hutus and including many senior officers who led the 1994 genocide.

4. The economic, social and political climate in the region continues to be tense and unstable. Although the protocol signed by the Government of the Democratic Republic of the Congo and UNHCR on 28 July 1998 was supposed to improve UNHCR access to refugees and improve its activities in the country, the resumption of hostilities made it even more difficult to reach the refugees and in the middle of August UNHCR was obliged to evacuate all its staff from the country. The authorities of Rwanda, on the other hand, have requested UNHCR for logistical help in returning internally displaced people to their areas of origin.

5. The Transnational Radical Party (TRP) is convinced that it is essential to focus on measures to prevent violations and denials of human rights that lead to and take place during mass exoduses and displacements, and requests the Commission to pay particular attention to the preparation and follow-up of the report of the High Commissioner for Human Rights on such measures, whose preparation and submission was requested by the Commission in resolution 1998/49.

6. TRP also invites relevant United Nations bodies, particularly the Under-Secretary-General for Humanitarian Affairs and the United Nations High Commissioner for Refugees, to assume a common approach to re-establishing as soon as possible an effective United Nations presence in the Democratic Republic of the Congo and the Great Lakes region.

7. Furthermore, the TRP urges the Commission and its member States to put political and diplomatic pressure on all the parties to the conflicts in Congo and Rwanda in order that they fully respect their obligations under international humanitarian law, and particularly the standards stipulated in the Geneva Conventions of 1949.

8. Another issue we would like to draw to the attention of the Commission is the longstanding problem of the 30 million Kurds living in Iraq, Iran, Syria and Turkey, where they constitute a minority, but considerable part of the population (approximately 20 per cent in Iraq, 15 per cent in Iran, 10 per cent in Syria and 20 per cent in Turkey), and where their rights and freedoms continue to be violated.

9. The situation of the Kurds in Iraq, where the Government is engaging in a broad array of human rights violations against its population in general, including mass arrests, torture, summary executions and "disappearances", is undoubtedly deteriorating, also owing to intra-Kurdish rivalry and conflict between the Patriotic Union of Kurdistan (PUK) of Mr. Talabani and the Kurdistan Democratic Party (KDP) of Mr. Barzani in Iraqi Kurdistan. This region is further racked by the operations of the Turkish Kurdish guerrilla movement, the Kurdistan Worker's Party (PKK), by significant military confrontations between KDP and PKK and by frequent Turkish military incursions targeting PKK bases in northern Iraq.

10. While the meeting and agreement between Mr. Barzani and Mr. Talabani on 18 September 1999, in Washington have given concrete hope for an end to factional fighting in Iraqi Kurdistan, the attack on the region targeting the PKK launched in November 1999 by 2,000 Turkish troops (undeterred by the United States policed no-fly zone) has resulted in the killing of over 1,200 people and the displacement of thousands of civilians from their homes.

11. The Iraqi Government's ethnic cleansing and Arabization policy in the Kurdish areas controlled by Saddam Hussein's forces continued to be very dire, especially in Kirkuk, Khanaqin, Jalawla, Mandali, Tuz and Makhmour. The triple pillar of this policy has been Arabization, deportation and Ba'athification. The massive settlement programme launched by the Government in 1970, when Kurdish workers from the region were deported to southern Iraq and replaced by Arabs, has today reached the figure of 300,000 settlers. These settlers have been economically and socially privileged to the detriment of the non-Arab population, whose land and properties have been confiscated and who have been denied employment and commercial activities.

12. According to a report of the United Nations Secretary-General (S/1997/685), there are already more than 500,000 internally displaced persons in the three northern Kurdish provinces of Iraq (Sulaimaniya, Arbil and Duhok); the large majority of them come from the above-mentioned areas. The forced eviction and confiscation of property continues on a day-to-day basis. During April and June 1998 alone, 1,468 Kurdish families were expelled from Kirkuk province to Iraqi Kurdistan. A number of relatives of the targeted families were reportedly detained and the food ration tickets and their property were confiscated. Tens of thousands of these internally displaced are living in tents and other miserable conditions.

13. The ruling Ba'ath Party has Ba'athified school materials, the media and daily life, and prohibited teaching in Kurdish and other minority languages in this province. Recruitment to the party, militia and other organizations also became obligatory. Privileges in all areas of life are accorded to its members, while punishment, discrimination and exclusion await those who refuse to join or obey them. Moreover, the survivors of the Anfal campaign of the 1980s (182,000 Kurdish victims, 4,500 Kurdish villages and towns destroyed) suffer from multiple diseases without any outside specialized health care. Over 10 million land mines planted in Iraqi Kurdistan have caused so far 15,000 civilian deaths since the Gulf war. Scores of others have been injured or maimed for life.

14. Turkey's centrality to the Kurdish conflict has to be acknowledged, since the relatively advanced level of civil society in Turkey opens the possibility of improvement. However, the political violence and certain legal restrictions on the part of Turkey, as well as grave violence towards the civilian population committed by both government forces and the PKK have contributed to a climate that is not conducive to dialogue and other conflict resolution strategies and efforts.

15. In 1998, several offices of the pro-Kurdish People's Democracy Party (HADEP) were raided and party administrators and members were detained and tortured and four party officials were charged with "separatism through publication" and "acting as the political branch of PKK". Four parliamentarians from the Democratic Party (DEP), banned by a 1995 decision of the Supreme Constitutional Court, remain in prison. Three other former DEP parliamentarians were sentenced in 1998 on charges relating to peaceful expression.

16. The provinces in south-east Turkey, where armed conflict between security forces and the PKK since 1984 has resulted in the deaths of about 35,000 civilians and the forced depopulation of thousands of villages and hamlets, remain under a state of emergency. Six provinces have been ruled by State-appointed governors with extraordinary measures and extended restrictive powers. Little effort has been made to facilitate the return of displaced persons to their homes or to compensate them for the destruction and loss of property.

17. Although the armed conflict in the south-east has lessened in intensity, both government forces and the PKK continued to commit serious human rights violations. Village guards - ethnic Kurds appointed by the Government in remote areas and "convincing" villagers not to assist the PKK - continue to be implicated in many abuses, such as rape, executions of civilians, forcing villagers to walk across mine fields or torturing family members and neighbours. PKK members have continued to execute civilians they suspected of cooperating with the security forces. In July 1998, PKK members reportedly killed two girls, aged 4 and 14, after they failed to find their father, who was the brother of the village headman. Three mayors in the south-east, who were said not to support the PKK, were kidnapped, and one of them was later murdered. In August 1998, a bomb reportedly planted by the PKK killed seven people and injured more than one hundred in one of Istanbul's most crowded historical marketplaces.

18. A newspaper advocating the recognition of Kurdish identity was fined approximately US\$ 12,000 in 1998 and closed by court order for 312 days. Issues of a weekly in Kurdish, Hevi, known for its non-violent stance, were repeatedly confiscated dozens of times during the year. Sefik Beyaz, former head of the Kurdish Institute, was sentenced in March by the State Security Court to one year's imprisonment and a fine of US\$ 100 for "making separatist propaganda by playing Kurdish music" during his election campaign in 1995. The Criminal Court of Istanbul ruled in May 1998 that officials of the Kurdish Culture and Research Foundation cannot conduct Kurdish language courses (prohibited by law).

19. Repression of the Kurds and other minorities in Syria is pervasive. Kurdish political organizations are outlawed and the gradual Arabization of fertile Kurdish lands continues, a process by which Kurds have been deported and their lands turned over to Arab settlers. Another major concern has been the denial of citizenship to approximately 200,000 Kurds, thus denying them their rights and freedoms. While the Syrian Government actively recruits young Kurds to the ranks of the PKK, encouraging them to do so as an alternative to mandatory service in the Syrian armed forces and to become involved in the struggle for Kurdish cultural and political rights in Turkey, it vigorously prohibits similar activities within Syria.

20. The accession of President Khatami in Iran and the will to reform declared by him represent an opportunity for improvement and give hope for the start of a political dialogue between the Government and its peoples, who have so far been denied fundamental rights and freedoms.

21. The TRP urges the Commission and its member States to undertake all possible means to make Iraq respect its obligations under United Nations Security Council resolutions, including resolution 688 (1991), which demands an end to the repression of Iraqi citizens.

22. The TRP furthermore calls on the Commission to charge the United Nations High Commissioner for Human Rights to prepare a special report on the human rights conditions of the Kurds to be submitted to the Commission at its fifty-sixth session and to undertake all necessary steps to enhance the effective presence of the United Nations in Iraq, Iran, Syria and Turkey and expand monitoring and humanitarian assistance in these countries.

23. Finally, the TRP requests the Commission and all relevant United Nations bodies to start a speedy process for convening an international conference on the Kurdish question with the participation of all parties involved and under the auspices of the United Nations.

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RIGHTS OF THE CHILD

Written statement submitted by the Friends World Committee
for Consultation (Ouakers), a non-governmental organization
in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[5 February 1999]

Child soldiers

1. Written statement by Friends World Committee for Consultation (Quakers), an international non-governmental organization in special consultative status with the Economic and Social Council, on behalf of the Coalition to Stop the Use of Child Soldiers (whose steering committee consists of Amnesty International, Defence for Children International, Human Rights Watch, International Federation Terre des Hommes, Jesuit Refugee Service, Quaker United Nations Office, Geneva, and Radda Barnen (on behalf of the International Save the Children Alliance).
2. The Coalition to Stop the Use of Child Soldiers welcomes the decision of the working group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, at its meeting on 11 January 1999, to recommend to the Commission on Human Rights that the mandate for broad informal consultations by the Chair be continued for a further year. The Coalition urges the Commission to endorse this recommendation.
3. The Coalition is concerned that the Chair's consultations should include all interested parties, not only Governments, and should be conducted in a manner designed to ensure that all parties are able to participate. In so far as these consultations result in the Chair bringing forward a new text of a draft optional protocol, this text should form the basis for any further negotiations in the working group.
4. At the same time, the substance of the consultations needs to take into account that the purpose of the exercise is not to produce a consensus. The purpose of the optional protocol is to establish new standards to protect children from becoming involved in armed conflicts. Its character as an optional protocol clearly establishes that those Governments unable or unwilling to meet the standards set are not bound by its provisions nor obliged to become parties to it. As clearly stated by the United Nations High Commissioner for Human Rights, Mary Robinson, to the fourth session of the working group, national legislation should not be presented as an obstacle to the elaboration of more advanced international standards, especially bearing in mind the optional character of the proposed protocol.
5. The adoption of the Statute of the International Criminal Court (Rome, July 1998) establishing individual criminal responsibility for the recruitment or use in hostilities of children under the age of 15 in both international and non-international armed conflicts, whether the recruitment or use was on behalf of a Government or an armed group, is a major step forward in ensuring the implementation of existing standards. All States should be urged to ratify this Statute as soon as possible in order to bring it into force and to provide the maximum scope for the prosecution of these crimes.
6. At the same time, this new and potentially highly effective tool to address the enforcement of existing standards, as well as the work of the Special Representative of the Secretary-General on the impact of armed conflict on children and others, means that the optional protocol need not be hostage to the perception that it should be adopted as soon as possible even if the standards are only a slight improvement on existing ones. On the contrary, the protocol should reflect the true protection needs of children as supported by a growing body of Governments who have changed their recruitment

laws and practices to ensure exclusion of under-18s from the armed forces, the increasing number of ratifications of the African Charter on the Rights and Welfare of the Child (which specifies the minimum age for recruitment and participation as 18 years), the decision of the United Nations Secretary-General that henceforth no United Nations peacekeepers should be under 18, and preferably not under 21 years, and public opinion, as witnessed by, for example:

(a) The public statement on child soldiers adopted by the Eighth Assembly of the World Council of Churches, held in Harare, Zimbabwe, from 3 to 14 December 1998, in which it called, inter alia, for an immediate moratorium on the recruitment and participation of children as soldiers, the demobilization of existing child soldiers and the adoption of an optional protocol to the Convention on the Rights of the Child raising the minimum age from 15 to 18 years for all forms of recruitment and participation in hostilities;

(b) The resolution of the European Parliament (B4-1078 of 17 December 1998) which, inter alia, states that a "protocol to the international Convention on the Rights of the Child should urgently be adopted which bans the recruitment of children under 18 and their participation in armed conflicts, and calls on the European Union to support international initiatives to this end and to adopt the same laws in their own countries;" and "calls on the Council to agree a Joint Action in order to promote the adoption of this optional protocol and make the fight against the use of child soldiers part of the Union's policy";

(c) The resolution of the United States Congress, attached to the United States Department of Defence Appropriations Act for Fiscal Year 1999, stating that "It is the sense of the Congress that the President and the Secretary of State should ... (2) not block efforts to establish 18 as the minimum age for participation in conflict through an optional protocol to the Convention on the Rights of the Child";

(d) The resolution of the Committee on the Rights of the Child (October 1998), which reiterates the need for an optional protocol "to raise the minimum age for mandatory recruitment or voluntary enlistment of children into armed forces, and for direct or indirect involvement of children in hostilities, to 18 years".

7. The Coalition to Stop the Use of Child Soldiers not only welcomes all these initiatives and steps forward, but plans to reinforce them through its own activities in the course of the coming year, in particular the continued development of new national coalitions and of links with existing national coalitions and non-governmental organizations working on the issue of child soldiers.

8. In addition, the Coalition is planning three major regional conferences on child soldiers during 1999, for Africa (Maputo, Mozambique, 19-22 April), for Latin America (Montevideo, Uruguay, in July) and for Asia (place and date to be confirmed). The objectives of the conferences are to promote the adoption and implementation of national standards prohibiting the recruitment and use of children under 18 years (and in the case of the African conference, the ratification of the African Charter on the Rights and Welfare of the Child), to consider local experiences and lessons learned in preventing the

recruitment of children and in the demobilization, rehabilitation and social reintegration of child soldiers; to examine ways and means of ensuring respect for standards by armed opposition groups; and to promote the adoption of an optional protocol to the Convention on the Rights of the Child prohibiting the recruitment and use of persons under the age of 18 as soldiers.

9. Friends World Committee for Consultation (Quakers) and the Coalition to Stop the Use of Child Soldiers, therefore, urge the Commission on Human Rights to:

- (i) Renew the mandate for broad informal consultations to be undertaken by the Chair of the working group on the draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts;
- (ii) To accept any text of a draft optional protocol produced by the Chair as a result of her consultations as the basis for any further negotiations on the protocol by the working group;
- (iii) To urge all State to become parties to the Statute of the International Criminal Court as soon as possible;
- (iv) To call on all States who have not yet set at least 18 years the minimum age for all forms of recruitment and participation in hostilities, to reconsider their existing laws and practices with a view to (a) ensuring that they are in a position to guarantee that no peacekeepers provided to the United Nations will be below the 18-year minimum age prescribed by the United Nations Secretary-General, and preferably that they will not be below 21; and (b) reviewing the perceived need to recruit and use persons under the age of 18 in military service and its compatibility with the current thinking and developing standards in relation to the protection of children.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD

Written statement submitted by the International Franciscan Family,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which
is circulated in accordance with Economic and Social Council
resolution 1996/31.

[18 February 1999]

IN THE FACE OF A SERIOUS HUMAN RIGHTS CRISIS, THE COLOMBIAN GOVERNMENT
IS NOT COMPLYING WITH INTERNATIONAL RECOMMENDATIONS AND THE SITUATION
CONTINUES TO DETERIORATE

1. The trade union, social and non-governmental human rights organizations affiliated to Colombia-Europe Coordination submit this statement for the consideration of the Commission on Human Rights (hereinafter referred to as the Commission), with a view to demonstrating that the Colombian Government has failed to implement most of the international recommendations made in the past by United Nations bodies. They therefore request that the Commission reiterate its concern at the persistence of the human rights crisis and urge the Colombian Government to implement the measures recommended by the international community.
2. The United Nations High Commissioner for Human Rights (hereinafter referred to as the High Commissioner) stated in her report submitted to the Commission in 1998 that human rights violations and breaches of international humanitarian law in Colombia were "serious, gross and systematic" (E/CN.4/1998/16, para. 172). The human rights situation in 1998 has not basically changed. The more notable features continue to be the activities of paramilitary groups, the worsening of forced displacements, attacks on human rights defenders and community leaders and the persistence of impunity, all of which point to an aggravation of the human rights crisis. In addition, armed confrontation has been worsening and seriously affecting the enjoyment and exercise of human rights and fundamental freedoms.
3. President Andrés Pastrana's Government has not come up with any appropriate policy in response to this serious crisis. One of the few measures taken has been the appointment of the Vice-President with special responsibility in this area, which may mean that an effort is being made to raise the profile of human rights within the Government. This senior official has not yet, however, taken up his duties in practice.
4. During this Government's term of office, paramilitary activity against the civilian population has noticeably increased, without this leading to any determined or effective attempt to deal with these groups by the security forces (army and police), or to any decisive action to eliminate existing ties between State agents and paramilitary groups. Quite on the contrary, reports indicate that paramilitary groups have been supported by the security forces in clashes with guerrilla groups.
5. Furthermore, the Government's willingness to engage in dialogue with insurgent groups contrasts with its refusal to discuss the objections of social movements to economic adjustment measures.
6. In view of our commitment to the search for a negotiated political solution to the internal armed conflict affecting Colombia, we are calling for measures to be taken against impunity, for the dismantling of paramilitary groups and for ties between these groups and some State agents to be broken off, since we are convinced that such measures will help to usher in a solid and lasting peace and to generate favourable conditions for the development of dialogue leading to a political solution to the conflict. We are convinced that from the point of view of human rights the first point to be negotiated

should be the adoption of an agreement obliging the parties to respect the rights of non-combatants. It should also be stressed, however, that with regard to international human rights law no consideration should be given, at the outcome of any peace process, to clemency measures that might protect those guilty of crimes against humanity, including genocide, and war crimes.

7. As may be appreciated, the conditions that motivated the establishment of the Office of the High Commission in Colombia (hereinafter referred to as the Office) have not changed. For this reason, we reiterate our support for the Office's mandate, which consists of advising the Colombian authorities and community organizations on the development of policies and programmes for the promotion and protection of human rights, of monitoring human rights violations in the country and of reporting to the High Commissioner, so that the latter in turn may submit a detailed analytical report to the Commission.

8. We consider that the proper implementation of this mandate, added to the permanent presence of Office staff in our country, should enable the Office to play a significant role in overcoming the serious human rights crisis. Nevertheless, we disagree with the approach adopted so far, which has assumed that human rights violations are inevitable so long as the internal armed conflict persists. As a result, the Office has not fulfilled its mandate to its full potential, or with the necessary decisiveness and conviction, to ensure that the Colombian authorities respect and protect the human rights of the people, even in a situation of armed conflict.

9. The number of persons displaced from their communities has increased alarmingly, reaching levels that can be described as catastrophic. According to non-governmental sources, from 1985 to September 1998 nearly 1,400,000 persons were forcibly displaced, some 250,000 of whom between January and September of the past year. In the circumstances, the Government's policy has not been effective in tackling the causes of displacement, nor in attending to the basic needs of displaced persons, nor in providing compensation to victims of these multiple human rights violations.

10. In recent years, the purchasing power of Colombian workers' salaries has been falling. While a worker's household basket of goods costs the equivalent of 2.5 monthly minimum wages, more than a quarter of the workforce do not earn more than the minimum wage and the activities of more than 50 per cent of the workforce are related to the informal economy, where generally not even the minimum wage is guaranteed. The situation has been worsening with the increase in unemployment, which rose to 15.9 per cent in December 1998 for the seven largest towns, according to official figures. Prospects for 1999, moreover, are not encouraging. The adjustment policy initiated by the Government aims not only to restrict salary increases, but also to continue reducing the purchasing power of workers by increasing the taxable base of the Value Added Tax.

11. On the basis of the Office's activity, the High Commissioner submitted a report on the situation in Colombia (E/CN.4/1998/16) to the Commission at its fifty-fourth session. After the report had been debated, the Office's mandate was renewed and a statement proposed by the Chairman of the Commission was adopted, in which concern was expressed for the deterioration of the situation

and, amongst other things, the Colombian Government was urged to implement the recommendations of the High Commissioner and other supervisory mechanisms of the Commission.

12. It seems worth emphasizing that, in view of its international obligations, the Colombian Government has an obligation to support the activities of the human rights bodies and to heed their recommendations. If the High Commissioner's recommendations are compared with the degree of implementation of those recommendations by the Colombian Government, it may be concluded that the latter is not cooperating adequately with the United Nations bodies dealing with the defence and promotion of human rights and fundamental freedoms in all countries.

13. In fact, as indicated by the High Commissioner in her first report to the Commission (E/CN.4/1998/16, para. 207), the Colombian authorities have not taken account of the recommendations "of treaty bodies and special mechanisms of the United Nations Commission on Human Rights". Some of the more important recommendations reiterated by the High Commissioner have not received the attention of the Colombian Government, and even less been implemented. They concern respect for international humanitarian law, confrontation with and eradication of paramilitary groups, elimination of links between some State agents and these groups, and the adoption of measures to combat impunity and to guarantee the full operation of the justice system. In some cases, this disregard has amounted to open defiance, when military officials under investigation for human rights violations have actually been promoted.

What do we expect from the Commission on Human Rights?

14. For all the above reasons, we believe that the Office should concentrate its efforts on persuading the Colombian authorities to put the High Commissioner's recommendations into practice in 1999. To achieve this, the Office's activity should be firmly restricted to the mandate contained in the statements of the Commission Chairman and in the Agreement signed by the Government of Colombia and the High Commissioner. It would also be appropriate for the Commission, when it examines the High Commissioner's third report on the situation of human rights in Colombia in the year 2000 at its fifty-sixth session, to give special attention to the degree of compliance with the recommendations by the Colombian Government. Should the Government persist in its refusal to implement the measures suggested, the Commission should examine the need to establish other mechanisms, such as a special rapporteur, which together with existing mechanisms would help to ensure that the Colombian authorities fulfil their obligation to cooperate adequately with the United Nations with a view to overcoming the serious human rights crisis.

15. At the fifty-fifth session of the Commission, we submit the following requests:

(a) That on the basis of the detailed analytical report submitted by the High Commissioner, the Commission reiterate its deep concern for the persistent human rights crisis experienced by Colombia and for the continuing failure to comply with the recommendations made to the Colombian Government, and therefore urge the Government to implement the High Commissioner's recommendations in consultation with the Office;

(b) That the Office's mandate be renewed and that it be asked to concentrate its efforts to ensure that the Colombian authorities implement the recommendations made by the mechanisms of the Commission and the treaty bodies, in particular those contained in the High Commissioner's report to the fifty-fourth session;

(c) That as a means of increasing the commitment of the international community to the improvement of the human rights situation in Colombia, the High Commissioner be asked to submit her report on her Office's activities and concerning the human rights situation in Colombia to the General Assembly as well;

(d) That the High Commissioner be invited to monitor closely the activities of her Office and that her report should take into account the degree of implementation on the recommendations which she and other United Nations human rights bodies have made to the Colombian authorities;

(e) That with a view to ensuring the proper implementation of the Office's mandate, the High Commissioner be asked, when recruiting new staff, including the person in charge, to take account of their sensitivity, knowledge and experience in international human rights law and in Latin America, as well as of their training in the areas of forced displacement, the justice system, conditions of detention and different forms of discrimination;

(f) That the High Commissioner be urged, through whatever mechanism she considers best suited, to interpret her Office's mandate and, on the basis of that interpretation, to prepare a work plan for the Office in the light of priority action areas;

(g) That the High Commissioner be asked to coordinate with other thematic mechanisms of the Commission to ensure that they continue to cover the human rights crisis in Colombia in their annual reports and to carry out whatever visits they consider appropriate.

Centrales Obreras - Organizaciones Sindicales

1. Central Unitaria de Trabajadores - CUT
2. Confederación General de Trabajadores Democráticos - CGTD
3. Confederación de Trabajadores de Colombia - CTC
4. Comisión de Derechos Humanos - USO - Asamblea por la Paz

Santa Fe de Bogotá

5. Asociación Nacional de Ayuda Solidaria - ANDAS
6. Asociación de Familiares de Detenidos Desaparecidos - ASFADDES
7. Asociación Nacional de Usuarios Campesinos - Unidad y Reconstrucción - ANUC-UR
8. ASOCIACIÓN PARA LA LIBERTAD DE CREENCIA - CREER
9. AVRE - Corporación
10. Benposta Nacional de Muchachos
11. CASA DE LA MUJER
12. Centro de Investigación y Educación Popular - CINEP
13. CENTRO JUSTAPAZ
14. Corriente de Renovación Socialista
15. CEPECS - Fundación
16. CODHES
17. Comisión Colombiana de Juristas - CCJ
18. Comité de Solidaridad con los Presos Políticos - CSPP
19. Comité Permanente por la Defensa de los Derechos Humanos - CPDH
20. Corporación Colectivo de Abogados "José Alvear Restrepo"
21. Corporación de Apoyo a Comunidades Populares - CODACOP
22. Defensa de los Niños Internacional - DNI
23. Franciscans International
24. Fundación para la Educación y Desarrollo - FEDES
25. Fundación Manuel Cepeda
26. Fundación Dos Mundos
27. Fundación Para la Participación Comunitaria - PARCOMUN
28. Grupo de Derechos Humanos de Gays y Lesbianas
29. Humanidad Vigente - Corporación Jurídica
30. Instituto Latinoamericano de Servicios Legales Alternativo - ILSA
31. Instituto María Cano
32. MENCOLDES
33. MINGA - Asociación
34. Organización Nacional Indígena de Colombia - ONIC
35. PROMUJER
36. Programa por la Paz
37. REINICIAR - Corporación
38. SEMBRAR - Corporación
39. UTOPIAS - Corporación
40. VIVA LA CIUDADANIA - Corporación

Antioquia

- 41. Instituto Popular de Capacitación - IPC
- 42. Corporación REGION
- 43. Escuela Nacional Sindical - ENS
- 44. Comité de derechos Humanos "HECTOR ABAD GOMEZ"

Atlántico

- 45. Corporación CEAC
- 46. FUNPECIS
- 47. Presbiterio de la Costa

Bolívar

- 48. FUNSAREP
- 49. Corporación Centro CLEBER

Chocó

- 50. Comisión Vida, Justicia y Paz - Diócesis de Quibdó

Caldas

- 51. Comité Permanente de Derechos Humanos de Caldas
- 52. ANUC - CALDAS
- 53. Asociación de Mujeres, Indígenas y Campesinos de Villamaría - AMUCIV
- 54. ANUC - VILLAMARIA
- 55. Comité Permanente de Derechos Humanos de Chinchiná
- 56. Asociación de Vivienda EL PORVENIR
- 57. Sindicato de Trabajadores de Chinchiná
- 58. Sindicato de Trabajadores de Palestina
- 59. Asociación Nacional de Estudiantes de La Universidad Del Cauca

Cauca

- 60. Fundación Estrella Orografica Del Macizo Colombiano - Fundecima
- 61. Grupo de Trabajo Universidad Del Cauca
- 62. Colectivo Vida y Esperanza
- 63. Colectivo Regional Indígena Del Cauca - CRIC

Cesar

- 64. Comité de Derechos Humanos de Pailitas

Norte de Santander

- 65. Comité de Solidaridad con los Presos Políticos
- 66. Corporación COMPROMISO HUMANITARIO
- 67. Asociación Nacional de Ayuda Solidaria ANDAS
- 68. CENTRAL COOPERATIVA

Santander

- 69. Coordinadora Popular
- 70. Organización Femenina Popular - OFP
- 71. CREDHOS
- 72. Comité de Derechos Humanos de Piedecuesta
- 73. REDES
- 74. Corporación Compromiso
- 75. Funprocep

Tolima

- 76. Comité de Solidaridad con los Presos Políticos CSPP - Seccional

Valle del Cauca

- 77. Comité de Solidaridad con los Presos Políticos CSPP - Seccional
 - 78. Comisión Vida, Justicia y Paz de la Arquidiócesis de Cali
 - 79. Procesos de Comunidades negras.
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CIVIL AND POLITICAL RIGHTS

Written statement submitted by Pax Christi International, a
non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[19 February 1999]

Abolition of the death penalty

1. Pax Christi International opposes capital punishment in all forms and all situations. By the following appeal, Pax Christi International, calls on all Governments worldwide that have not yet abolished the death penalty to consider the reasons we give for its revocation.
2. Pax Christi International supports the moratorium called for by Pope John Paul II in his 1998 Christmas address. It follows the suggestion in his 1996 encyclical Evangelium vitae that the modern State should not resort to the death penalty given that it has alternative means of protecting its citizens. This moratorium is requested for the year 2000, however, the ultimate wish is not merely for a cessation of the death penalty for one year, but total abolition of capital punishment altogether.
3. According to Amnesty International figures, at least 2,375 people were executed around the world in 1998. Four countries were responsible for 84 per cent of these deaths: China (1,644), the Islamic Republic of Iran (143), Saudi Arabia (122) and the United States (74). There is an encouraging trend by the United Nations High Commission for Human Rights towards supporting a moratorium on executions and showing concern at the number of countries that still enforce the death penalty in disregard of the limitations provided by international covenants. However, Pax Christi International, while recognizing the efforts of the United Nations, wishes an end to all capital punishment.
4. Article 6 of the International Covenant on Civil and Political Rights declares that the death sentence may only be imposed for the most serious crimes in accordance with the law in force at the time of the commission of the offence. Pax Christi International believes that there is no crime serious enough to warrant a sentence of death. Article 6 creates ambiguity and confusion regarding the definition of "serious crime" within different cultures and societies. In order to eliminate these discrepancies, the death sentence should not be handed down for any crime whatsoever, in any country of the world.
5. The right to life, liberty and security of person is fundamental, and guaranteed in all international human rights declarations, conventions and covenants. The Universal Declaration of Human Rights has, for 50 years, stipulated protection against subjection to cruel, inhuman and degrading punishment. The death penalty clearly violates these rights. The death sentence is being excused as an exception to the right to life. There is no mention of any exceptions to the right to life in the Universal Declaration of Human Rights.
6. As a method of preventing crime, there is no evidence to suggest that the threat of the death penalty will deter the commission of a criminal act. International comparisons of crime rates in different countries suggest that the threat of execution has no effect on the rates of capital crime. The protection of society from serious and violent crime is crucial also, but Pax Christi believes that the death penalty will not solve the deficiencies in society that can be traced to the causes of serious crime. The death penalty will not prevent crime or compensate victims, and is a misleading

solution to a complicated problem. Capital punishment is often imposed in societies that are not capable of, or willing to consider the complex causes or roots of criminal behaviour.

7. The death penalty tends to promote a harmful attitude of revenge amongst peoples. Those countries that have the death penalty enshrined in their law have hardened the views of society, creating a mentality of intolerance, vengeance and retaliation in relation to criminal offenders.

8. In many cases, the imposition of the death sentence is inconsistent with previous sentences for analogous crimes. Often the death penalty discriminates against social, political and racial minorities. Historical and contemporary evidence shows that the death penalty is borne unjustly by the poor, minorities and underclasses in general. It is alleged that those who can afford good legal representation have less chance of being sentenced to death.

9. There is always a risk that, even in the most carefully constructed legal system, human error, emotions or misjudgements could lead proceedings to become unfairly biased against the accused. History can recall numerous cases of wrongfully convicted prisoners being freed in light of new evidence, sometimes many years after being sentenced. In cases such as these, the finality of death makes the sentence irreversible if it has already been carried out.

10. It is a sad irony that nations that proclaim that the taking of human life is an intolerable crime, can punish the perpetrator in the same method thought so intolerable. The death penalty not only ends a life, it also subjects the convicted to inhuman and degrading treatment, and mental torture. Waiting many years for imminent death is a cruel punishment. However, this should not be an encouragement for Governments to shorten the time period between sentencing and death, leaving less time for the appeal process, and for new evidence to come to light.

11. Pax Christi International calls on the minority of States Members of the United Nations that have not yet abolished the death penalty to suspend all executions with a view to completely eradicating the sentence of death around the world.



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CIVIL AND POLITICAL RIGHTS: RELIGIOUS INTOLERANCE

Written statement submitted by Pax Christi International, a
non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[19 February 1999]

An appeal to end religious intolerance

1. Pax Christi International condemns all instances of religious intolerance and manifestations of violence against victims distinguishable only by their religious beliefs. The present document will focus on recent violent incidents against minorities in India and Pakistan. Pax Christi International has Executive Committee members and affiliated organizations in these two countries who keep our International Secretariat informed of the situation and work in their respective nations trying to spread the message of religious tolerance and supporting victims of religious attacks. We limit our concerns, in this statement, to religious intolerance in India and Pakistan. It is imperative to note that Pax Christi is aware that many countries throughout the world can record cases of religious intolerance within their jurisdiction.

India

2. Religious violence has been escalating in parts of India. Of India's population of 950 million, about 82 per cent are Hindu, 12 per cent Muslims, and Christians and Sikhs each make up about 2 per cent.

3. According to sources, there were over 90 attacks against religious minorities in 1998, with 38 in the State of Gujarat alone. In September 1998 an extreme Hindu group announced a campaign seeking the expulsion of Christian missionaries from India. On 4 December 1998 the Christian minority held a nation-wide protest day to focus the attention of the Government and the people of India on the spate of violence against Christians and the continuing effort by some fanatical elements to demolish the secular character of the State. In response, Prime Minister Atal Behari Vajpayee issued a statement that "India is a secular nation. Equal respect for all faiths has been the cornerstone of our culture and nationhood. My Government is fully committed to upholding this principle." However, the number of attacks continues to grow. On Christmas day churches, hospitals and schools were targeted in the Dangs district of Gujarat. Fundamentalist Hindus held a rally on Christmas day calling for an awakening of the Hindus and branded all priests and nuns "robbers" who abused government funds to build schools for converting tribal communities. There have been other clashes in Gujarat where Hindu fundamentalist groups have attacked schools and churches run by Christian missionaries.

4. Prime Minister Vajpayee visited areas in Gujarat in mid-January and urged stiff punishment for those behind attacks on the Christian minority. The violence is occurring particularly in the district of Dangs, with a population of 200,000, of whom 6,000 are Christians. Vajpayee has also called for debate on conversions to Christianity. The United Christian Forum for Human Rights says that debate is welcome but it must involve all - Christian, Hindu, Muslim, Sikhs.

5. The violence has occurred mostly in the north and west where extreme Hindu nationalist groups have wider support. These extremists condemn the conversion of Hindus by Muslims and Christians. They also allege that the social and educational services provided by these other religions are an excuse to convert. The violence has been launched on three fronts - direct

violence against the clergy, attacks on evangelists and disruption of prayer meetings, and pressure from municipal authorities on Christian institutions, including schools, colleges, hospitals and churches, regarding land permits and charges of encroachment.

6. India's Catholic bishops have complained to the head of State, President K.R. Narayanan, that the country's Christians are being subjected to "an unmitigated and unchecked hate campaign" with well-organized political backing. The Indian Government's attitude towards the crisis has been deplored by an assistant editor of The Times of India. In the paper's issue of 8 January 1999, Siddarth Varadarajan wrote that "senior Bharatiya Janata Party (BJP) leaders continue to prevaricate and dissemble". They criticized the violence, he said, but included "toxic sermons on the evils of Christian missionaries and religious conversion". He went on to cite the case of the Information and Broadcasting Minister, Pramod Mahajan. Even as he made a show of condemning attacks on Christians in Gujarat, the Minister accused Christian missionaries of "indulging in conversion under the garb of service to the poor".

7. Mr. Vajpayee's rightist Hindu Bharatiya Janata Party rose to power on a blend of Hindutva ("Hindu-ness") and moderation but in November the party rated poorly in the elections. Since then Mr. Vajpayee and the party's pragmatists have tried to tame the hard-line Hindu ideologues of the party's parent organization. However, human rights organizations in India are apprehensive that Mr. Vajpayee's failure to condemn the right-wing Hindu nationalist Sangh Pravier's violence against Christians will strengthen the monolithic revivalist and violent Hindutva agenda in the country. Unless fundamentalist organizations such as the Hindu Jagran Manch, Bajrang Dal and Hindu Parisad are indicted for intimidating minorities, it will be impossible to generate an environment for sane and peaceful debate.

8. The terror campaign against Christians in India took a horrific turn on 24 January 1999 with the burning to death in Orissa, Gujarat, of a 55-year-old Australian missionary and his two sons, aged 10 and 8. Many of the mob who inflicted the violence were chanting Hindu slogans in support of the extreme movement Bajrang Dal, which is linked to the governing BJP. The missionary, Graham Staines, had been working with leprosy patients in India for more than 30 years and was the secretary and treasurer of the Evangelical Missionary Society of Mayurbhanj, near the place where the crime was committed. The mob which attacked and surrounded the jeep was said to be between 50 and 100 strong. Villagers who tried to help the missionary were attacked and repelled.

9. India's 1950 Constitution, under the heading of Fundamental Rights, Part III, guarantees the right to freedom of religion. The basic structure of the Constitution promises freedom to profess and propagate any religion or faith. Pax Christi International calls on the Government of India to respect the terms of the Constitution and work to put an end to the violence that prevents religious minorities from realizing these freedoms.

Pakistan

10. In Pakistan, religious minorities are subjected to discrimination with sanction from socio-political structures, the Constitution of Pakistan and other laws. Religious intolerance assumes many forms. Sometimes it is expressed through derogatory attitudes, the depriving of education or physical maltreatment; other times it is dismissal from a job or institution through false charges brought under laws pertaining to religious offences.

11. Bishop John Joseph, Bishop of Faisalabad, was the first Punjabi to become a Catholic bishop in Pakistan. He was Vice-President of the Catholic Bishops' Conference of Pakistan and Chairman of the Human Rights Commission established by the Conference. He devoted himself to the struggle for human rights for the poor and victims of injustice, campaigned against the blasphemy legislation enacted in his country, and always believed in active non-violence. He successfully spearheaded a campaign against an unjust law introduced against minorities that would have required religion to be indicated on the national identity card. Bishop John Joseph stated that the card "would make religious discrimination not only actual, but official, and minorities second-class citizens".

12. Bishop John Joseph opposed the introduction of section 295-C of the Pakistan Penal Code. This makes punishable by death: "the use of derogatory remarks etc., in respect of the Holy Prophet: whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammed (peace be upon him)". Since this section was added as an amendment in 1986, blasphemy cases have multiplied. Often the charges are found to be fraudulent, yet no action is taken against those who make the false claims. Bishop John Joseph, in a speech in Vienna in March 1998 stated that: "The reason why we are targeting the death sentence in 295-C is because it is the greatest obstacle in Christian-Muslim relations." In a speech to be read in Rome on 5 May 1998, he wrote: "I shall count myself fortunate if in this mission of breaking barriers our Lord accepts the sacrifice of my blood for the benefit of his people."

13. He wrote letters urging bishops, parliamentarians, NGOs, Muslims, Christians and all sections of society to act in unity to get the death sentence of a Christian, Ayub Masih, quashed and the law repealed. On the evening of 6 May the Bishop was very depressed about the condemnation of Ayub and others imprisoned under the blasphemy laws. After leading a prayer service to seek God's help for Ayub's release, John Joseph went to the courthouse of Sahiwal, and upon confirming that this was the place where Ayub Masih had been condemned a few days earlier, shot himself in the head.

14. Pax Christi International wants to ensure that Bishop John Joseph's sacrifice was not in vain, that the struggle against injustice continues, and that the spirit of non-violent protests will endure.

15. Exclusivist tendencies among both Christians and Muslims do not permit real dialogue or sharing of religious experience. Sometimes, Christians seemingly exude a superiority complex, regarding themselves as better off and more advanced than Muslims, whereas on some occasions, Muslims appear to look

down on Christians and treat them with disdain. In Pakistan, it is not only stereotypes that hamper peaceful interreligious coexistence. The Pakistani Government must ensure that section 295-C is not misused as a personal vendetta against enemies. Judges are often pressured for a conviction with threats of being killed themselves. The only way to guarantee fairness and equality is through the repeal of section 295-C.

16. In 1998 the United Nations Commission on Human Rights adopted, without a vote, resolution 1998/18 on implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Note that it urged States to ensure that no one within their jurisdiction is deprived of the right to life or the right to liberty and security of person because of religion or belief, or is subjected to torture or arbitrary detention on that account. States must ensure that religious places, sites and shrines are fully respected and protected, and must promote through the educational system, and other means, understanding, tolerance and respect in matters relating to freedom of religion or belief.

17. In both India and Pakistan religious minorities are suffering from violations of these terms. The State cannot be powerless to cease this discrimination. Minorities are crying out for relief from religious persecution. Interreligious dialogue is vital to the prevention of violent attacks, and it must begin now before more people are killed, and religious communities victimized in the name of religious intolerance.

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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO
PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement submitted by the Society for Threatened Peoples,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[15 February 1999]

Right to self-determination for the Syrian Kurds

1. Every right to self-determination is being withheld from the Kurds living in the Syrian Arab Republic, whose areas of settlement in the north of the country lie on the borders with Turkey and Iraq. Their numbers are estimated to be between 1 and 2 million. They live predominantly in three enclaves: in the area around Afrin (the massif of Kurd Dagh), in the region of Ain al-Arab (Kobani), north-east of Aleppo, and in the province of Djazira, rich in raw materials, in the north.
2. In August 1962, a special census was carried out in the province of Djazira. Afterwards, 120,000 Kurds were expelled. They are now stateless. Left with only special identification papers, these Kurds are deprived of normal civil rights. In addition, according to official details, approximately 70,000 Kurds have been declared foreigners, together with 75,000 maktoumeen, likewise stateless Kurds who, unlike those who have been expelled, have never been included in the population register.
3. These people are not allowed to own land, houses, shops or businesses. They are not employed by authorities of State organizations. Education in the schools and universities is closed to them. These stateless Kurds are not admitted to public hospitals. They have no right to food aid during states of emergency. Marriage contracts with Syrian partners are invalid. In addition, they do not possess active or passive rights to vote. Because they do not receive travel documents, they are unable to leave the country legally.
4. In 1963, after the seizure of power by the Baath Party, the head of security of the province of Djazira, Mohammed Talab Hilal, published a 12-point plan, aimed at wiping out the cultural identity of the Kurds. The plan provided for the establishment of a 15-km wide so-called "Arabian belt" along the borders with Turkey and Iraq, as a buffer against the local Kurdish areas. The Kurdish population was to be replaced with Arab dam builders loyal to and armed by the regime, forcibly resettled on the land. This programme was partly realized and allegedly finished in 1976. It continues secretly. From January 1997, the expropriation of 600 families of stateless Kurds is said to have started in northern Syria. The policy of Arabization is pursued single-mindedly.
5. The Kurdish language is not recognized officially. Since 1967, Kurdish place names have been Arabized. Kurdish publications are forbidden, and Kurdish language media are not allowed. Since 1992, children have not been able to be registered with Kurdish names. Whoever professes himself a Kurd in Syria, or demands cultural and political rights for Kurds, is persecuted, imprisoned and mistreated. Among such political prisoners are those who have merely taken part in officially permitted celebrations of the Kurdish New Year (Newroz) or have spoken Kurdish openly. The Kurdish New Year celebration is only allowed occasionally.
6. In 1995, in the town of Kamishli, 16 men from the Syrian secret service were arrested because they had protested against the expulsion of Syrian Kurds by distributing leaflets. If they ever do come to an official trial, they

will be charged with "opposition to the aims of the revolution" or "publication of false information in order to cause unrest". Torture is commonplace in prison.

7. The Kurds living in Syria are not recognized as a minority, some not even as Syrian citizens. Their cultural and civil rights are withheld from them. The political parties and organizations of the Syrian Kurds are forbidden in Syria and must work underground. Therefore, they have no chance to defend the rights of their people in a democratic way. The right to self-determination is refused them.

8. The Society for Threatened Peoples therefore demands that the Syrian State recognize the Kurds as a minority and as equal citizens. It must return citizenship to the Kurds who have been declared foreigners and stateless. The barriers against the Kurds on the labour market and in the education sector must be lifted, and advice and care with regard to medical treatment must be guaranteed. It must be possible for Kurds to speak their language without restriction and to be able to use and maintain the names given to their children and their place names. The policy of Arabization must be stopped. For this, the continuation of the "Arabian belt" must be halted, and if possible cancelled. Kurdish publications, newspapers or even radio programmes must be allowed, and Kurdish events, such as the Newroz, should be permitted. Finally, the Kurdish parties in Syria should be able to represent themselves in Parliament and to defend their interests and rights on a parliamentary level.



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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Written statement submitted by the Society for Threatened Peoples,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[15 February 1999]

Rehabilitation of the expatriate Greek citizens of Turkish and
other non-Greek nationalities

1. The Society for Threatened Peoples emphatically welcomes the abolition of article 19 of the Greek citizenship law on 19 June 1998, under which 60,000 Greek citizens (predominantly of Turkish origin) were arbitrarily deprived of their citizenship by the Greek authorities in the years from 1955 to 1998. The Society for Threatened Peoples regrets, however, that the abolition of article 19 is not valid retroactively and that the Greek Government has introduced no measures until now to re-naturalize and rehabilitate these citizens who were arbitrarily deprived of their citizenship in this discriminatory way.

2. For decades, the Greek authorities arbitrarily revoked the citizenship of citizens of non-Greek origin who were living abroad, when they had the impression that those affected no longer had contact with their home towns. Members of the Turkish minority were predominantly affected by this and their existence is not recognized even today by the Greek authorities. Those affected did not have to be informed of the withdrawal of their citizenship and often first learned of it at the Greek consulates abroad when they wanted to renew their papers. According to information present at the Society for Threatened Peoples, citizenship was withdrawn from people of non-Greek origin who had moved away from their home towns, sold their property and left no relatives. As a result, 1,000-4,000 persons are living today as stateless people in Greece and suffer disadvantage in the areas of social services, health care and education. An unknown number have taken out new citizenship and are living abroad.

3. The Society for Threatened Peoples requests the Commission on Human Rights:

(a) To call upon the Greek Government to make the abolition of article 19 retroactive and immediately to revoke the discriminatory administrative acts; and

(b) To recommend to the Greek Government to guarantee reparations for the consequences of the arbitrary revocation of Greek citizenship on the grounds of ethnic origin.



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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by the Society for Threatened
Peoples, a non-governmental organization in special
consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[15 February 1999]

Disregard of the cultural rights of the Sorbian people in Germany

1. Since the reunification of Germany, the Society for Threatened Peoples has observed with concern growing repression and disregard of the cultural rights of the long-established (autochthonous) national minority of Sorbs in Germany.
2. A western Slav people, the Sorbs have lived in the area of Lusatia in the territory of the eastern German states of Sachsen and Brandenburg, since the sixth century. Sixty thousand people claim Sorbian origins, only half of them still speaking the language of their ancestors. A study made by the European Commission counts Sorbian as one of the European languages threatened with extinction.
3. Less than 10 years after German reunification, the German Government, under the leadership of former Chancellor Helmut Kohl, began dismantling the measures taken to protect the language and culture of the Sorbs. Instead of undertaking strengthened efforts to save the Sorbian language, the Government halved the subsidy for the Foundation for the Sorbian People (Stiftung für das sorbische Volk). Because the Foundation maintains the majority of the organizations of the Sorbian people in the fields of education and culture, Sorbian schools, nursery schools, media, etc. are threatened with closure.
4. The settlements of the Sorbian people continue to be threatened with destruction by the quarrying of brown coal. Already in the period of the German Democratic Republic, which suffered a chronic shortage of raw materials, numerous Sorbian villages had been torn down recklessly, and residents were forcibly resettled because they stood in the way of the mining of brown coal. This process is being continued in the Federal Republic of Germany. Although the Sorbian settlements enjoy special protection in the constitution of the state of Brandenburg, the Brandenburg parliament passed a special law on the extraction of brown coal on 11 June 1997, permitting the electrical company RWE to tear down Sorbian villages which were found in the way of the operations of the open-cast mine. The German-Sorbian village of Horno (German)/Rogow (Sorbian) was dissolved on 27 September 1998.
5. The Society for Threatened Peoples appeals to the Commission on Human Rights to demand a stop to the disregard of the rights of the Sorbian people in Germany and
 - (a) Demand that the German Government take active measures and strengthened efforts to save the Sorbian people;
 - (b) Call upon the German Government to maintain the Foundation for the Sorbian People and to revise its decision to cut its subsidies;
 - (c) Call upon the German Government to respect the traditional settlement areas of the Sorbian people and to preserve the German-Sorbian village of Horno/Rogow.



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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF
TORTURE AND DETENTION

Written statement submitted by the Society for Threatened Peoples,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[15 February 1999]

Mistreatment of and discrimination of ethnic Albanians in Kosovo

1. The Society for Threatened Peoples informs the Commission on Human Rights of violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the authorities of the Federal Republic of Yugoslavia. In particular, ethnic Albanians are victims of mistreatment and degrading treatment because of their nationality.
2. The Federal Republic of Yugoslavia is obliged to comply with the Convention against Torture, which it has ratified. In addition it has made the declaration under article 22. The prohibition of torture and other forms of mistreatment is also enshrined in the Federal Constitution of Yugoslavia, promulgated in 1992, and the Criminal Code of Yugoslavia, promulgated in 1976. Of these provisions, specifically articles 1, 11, 12 and 15 of the Convention against Torture, articles 23 and 25 of the Federal Constitution of Yugoslavia and articles 190 and 191 of the Criminal Code of Yugoslavia have been continually violated. Of course, several other international laws and standards have also been violated.
3. The Serbian authorities continue to arrest blameless ethnic Albanian citizens under the pretext of the struggle against terrorism. There are no reasonable grounds for such action; the basis for the repression is the Albanian ethnicity of those under suspicion. Arbitrary detentions of this nature are forbidden by article 23 of the Yugoslav Constitution. To date, the Serbian Government has admitted to detaining 684 ethnic Albanians, while it is widely estimated that upwards of 1,500 Albanians have been arbitrarily and illegally arrested. The number is only an estimate because various human rights monitoring organizations have been denied access to either the detained or any records of their detention.
4. Article 1 of the Convention against Torture defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".
5. Article 25 of the Federal Constitution of Yugoslavia also outlaws torture of a detainee, as well as the forcible extraction of confessions, when it states: "Respect for human personality and dignity shall be guaranteed in criminal and in any other proceeding in the case of deprivation or restriction of liberty and during the enforcement of a penalty. Any violence against a person deprived of liberty or whose liberty has been restricted, as well as any extortion of a confession or statement shall be forbidden and punishable. No one may be subjected to torture, degrading treatment or punishment".
6. The reports of detention seem to coincide in every way with what is deemed illegal by those two instruments. Defendants widely report having been subjected to severe repeated torture, intended to extort false confessions when no evidence can be brought forth to substantiate prosecution charges of

illegal activity and terrorism. The pattern seems to indicate that persons against whom there is little or no evidence must endure a greater degree of cruel and unusual punishment; the beatings and various other forms of torture have, at times, been so severe that some have not survived them.

7. The Serbian police have admitted that Adem Berisha, Rexhep Beslimi, Cen Dugolli, Maksut Qafleshi and Bilal Shila all died from trauma inflicted while being interrogated. This trauma has been inflicted variously by punching, kicking, beating of the prisoner's heads, hands, feet and genitals with objects, including police batons, and electric shocks, to name just a few modes of torture. The extreme beatings and torture (which the Serbian police apparently also call "interrogation") have been documented in post-mortem photographs of the deceased that reveal clear signs of torture, including broken bones, severe contusions, and internal haemorrhaging, inflicted during detention, according to Serbian police reports. These photographs clearly substantiate claims of abuse and torture in violation of the International Covenant on Civil and Political Rights and the Convention against Torture.

8. The subjects seemed to have been beaten until a confession was extracted or they died. It is these confessions which are used as the basis for sentencing defendants, even though such statements are explicitly deemed illegal by the aforementioned article 25 of the Federal Constitution; article 15 of the Convention against Torture which states "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings", and article 190 of the Criminal Code of Yugoslavia which states "Whosoever in an official capacity resorts to force, threat or other impermissible means or impermissible ways with the intention of extorting a deposition or other statement from the accused, witnesses, experts or other persons, shall be punished by imprisonment".

9. The Society for Threatened Peoples appeals to the Commission on Human Rights:

(a) To insist that the Serbian Government abide by international and domestic conventions and cease the criminal manner in which ethnic Albanians are continually and cruelly persecuted. The Serbian authorities must be instructed to act in accordance with the relevant international regulations;

(b) To demand that all prisoners, especially those detained for political and/or discriminatory reasons, who cannot be reasonably proved guilty of any offence be released;

(c) To urge that the International Committee of the Red Cross and other humanitarian monitoring organizations be granted access to the prisoners in order to inspect and document the atrocities committed.



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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:
RELIGIOUS INTOLERANCE

Written statement submitted by the Society for Threatened Peoples,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[15 February 1999]

1. The Society for Threatened Peoples wishes to once again draw the attention of the Commission on Human Rights to the deteriorating situation of religious freedom in Tibet. It is hoped that the submission of this statement will encourage the human rights mechanisms of the Commission to consider concrete scrutiny of the violations of religious liberties in Tibet.

2. The People's Republic of China, by adapting human rights to its national laws, degrades the significance and universality of human rights when it fails to live up to international standards of human rights. As a result there exists widespread violation in all areas of human rights in Tibet. The people of Tibet are denied their basic right to freedom of religion, and reports indicate that an escalating number of Tibetans are being arbitrarily detained for refusing to oppose their spiritual leader, His Holiness the Dalai Lama. Tibetan Buddhism is not simply the religion of the Tibetan people. Over the centuries, Tibetan national and cultural identity became indistinguishable from religious identity, to the extent that Buddhism regulated the life of all Tibetans.

3. In recent years, a repressive policy was adopted by China in order to neutralize religious influences within the Tibetan community. From China's perspective, Tibet's strong religious traditions fuel three persistent nuisances. Firstly, Tibet's religious strength is closely linked with its defiant independence movement: underground political groups have burgeoned in Tibet's monasteries and nunneries; and Tibetan monks and nuns fill Chinese prisons, making up 68.83 per cent of Tibetan known current political prisoners. Secondly, Tibet's Buddhist religion unifies and defines the Tibetans as a distinct people; distinct in particular from China and its coercive strategies to "unite the Motherland". Thirdly, it constitutes an obstacle to China's economic "development" of the region: in November 1995, in an article in China's official newspaper, monks were attacked for "not contributing to economic growth".

4. In January 1996, the Chinese authorities warned, "(t)hose who make use of religion to interfere with administrative, judicial, martial, educational and other social affairs, especially those who take advantage of religious reasons to split the country, must be severely cracked down upon according to law". Three immediate tasks were identified in order to "clean up problems in religion" in 1996: to order all places of worship to register; to deal with difficult religious problems of public concern; and to cultivate contingents of young patriotic religious leaders. Three months later, on 28 April 1996, China's national "Strike hard" campaign was launched inside Tibet. While this campaign was to crack down on crime and corruption, in Tibet the campaign was targeted at "splittists" who supported Tibetan freedom and His Holiness the Dalai Lama.

5. An integral part of "Strike hard" in Tibet was the "patriotic re-education" drive which drastically suppressed religious freedom in monasteries and nunneries and other Buddhist sites. Communist "work teams" were sent into monasteries and nunneries all over Tibet to forcefully "re-educate" monks and nuns how to think and act. Those who resisted faced expulsion or imprisonment. The core of the "re-education" sessions is to oppose notions of Tibetan nationalism and to denounce His Holiness the Dalai Lama. Those who opposed "re-education" faced severe repercussions.

6. Since China launched the "Strike hard" campaign in Tibet in April 1996, 9,827 expulsions, 318 arrests and 14 deaths have been reported as of February 1998. Regulations allowing entrance into monasteries have been tightened - for example, the imposition of minimum and maximum age restrictions - thereby further reducing the monastic population and discouraging religious studies. China reports that so far some 30,000 of Tibet's 46,000 Buddhist monks and nuns have received "patriotic re-education" and out of 1,787 monasteries and temples a reported 1,780 monasteries and temples have been covered by the work teams. The Chinese authorities have also started to extend the campaign from monasteries and nunneries into all parts of Tibetan society.

7. In November 1997, the Chinese authorities announced that "patriotic re-education" will be carried out in agricultural communities, towns, cities, government organs and schools. The announcement carried by the Tibet Daily of 21 November, signalled the "success" of a pilot project carried out by the authorities to see if the "patriotic re-education campaign" could be safely adapted to the rural communities, where the Chinese authorities were concerned that the influence of His Holiness the Dalai Lama was increasing.

8. It is not only His Holiness the Dalai Lama who is under attack by the Chinese authorities, but Tibetan Buddhism itself. In July 1997, in a radical rewriting of a history that goes back centuries, Tibet's top leader, "Tibet Autonomous Region" Party Secretary Chen Kuiyuan, declared that "Buddhism is a foreign culture" and claimed the idea that Tibetan culture is Buddhist to be "totally absurd". This was followed by the announcement in November 1997 in China's official newspaper that the ideological "re-education" campaign could continue for the next three to five years, stressing that, "(r)eligion must adapt to the development needs of socialism and not socialism adapting to the needs of religion".

9. Religious and cultural rights are internationally recognized human rights. The incorporation of these rights in international law is a recognition that the preservation of these values is of concern to the entire world community. The right to freedom of religion is enshrined in article 18 of the Universal Declaration of Human Rights and thereby represents an international standard applicable to all nations. The inseparability of religion and culture in Tibetan society means that the Tibetan people's freedom of religion is also protected under article 15 of the International Covenant on Economic, Social and Cultural Rights (signed by the People's Republic of China in October 1997), which recognizes the right of everyone "(t)o take part in cultural life". China regularly claims that the Tibetan people's human rights are being observed and that they enjoy full religious freedom.

10. The brunt of China's religious repression is currently borne by Tibet's monks and nuns and, as shown in a recent report, "Closing the door - religious repression in Tibet", released by an Indian-based human rights group, the Tibetan Centre for Human Rights and Democracy. The report concludes that the accounts compiled reveal violations of internationally recognized human rights to religious and other freedoms on the part of the People's Republic of China, which represent an immediate and critical threat to the very survival of the religious, linguistic and cultural identity of the Tibetan people.

11. The current attacks on the Tibetan freedom movement's perceived "splittist" activities and on His Holiness the Dalai Lama as a political and as a religious figure, are also central in the drive to construct what the People's Republic of China calls, "spiritual civilization". For example, in a 23 July 1996 speech, Chen Kuiyuan asserted that the Dalai Lama has betrayed the "aim of Buddhism" and said that one of Tibet's important tasks in constructing "spiritual civilization" was to "screen and eliminate the Dalai's influence in the spiritual field". Other tasks according to Chen, were correctly handling the issue of religion and establishing a "proper concept" of religion.

12. It is in view of the situation in Tibet described above that we support the wish of the Special Rapporteur to make a follow-up visit to Tibet. We, therefore, call upon the Chinese authorities to invite the Special Rapporteur as soon as possible.

13. In conclusion, we call upon the Commission on Human Rights at its fifty-fifth session to initiate concrete actions against the repeated failures of the People's Republic of China in the field of human rights by adopting a resolution under the agenda item dealing with country situations.



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INDIGENOUS ISSUES

Written statement submitted by the Society for Threatened Peoples,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[15 February 1999]

Recognition of the authorities of the Embera-Katio people
of Alto-Sinú in Colombia by the State authorities

1. The Society for Threatened Peoples informs the Commission on Human Rights of the precarious food situation of an indigenous people as a result of the irresponsible actions of a dam concern which have made fishing on the indigenous territory impossible.
2. The Embera-Katio are an indigenous people whose officially recognized territory lies within the national park of Paramillo in the border area between the departments of Antioquia and Córdoba in the north-east of Colombia. This people has suffered the consequences of environmental damage resulting from the building of the Urra I dam. Until now, the greatest damage has consisted in the total loss of fish, the main food source of these people. The multipurpose concern URRRA S.A., which built this dam, refuses to hold comprehensive negotiations with the Embera-Katio. The most recent argument which the firm advanced was that there were several indigenous authorities and it therefore did not know which was legitimate. The Embera-Katio took legal action against URRRA S.A., as well as against the mayor of Tierralta, regarding the maintenance of their rights of procedure and to oblige URRRA S.A. to negotiate about compensation. In November 1998, the Constitutional Court in last instance judged in favour of the indigenous people. The judgement required the mayor of Tierralta to acknowledge the competence of the indigenous authorities to represent the interests of the indigenous people vis-à-vis URRRA S.A.
3. By a variety of juridical tricks, URRRA S.A. has managed to prevent implementation of the judgement. The mayor has up to now only officially acknowledged the representatives of one of the three river regions in which the indigenous communities live. It is not by chance that they are the representatives of the region which is in favour of a fast conclusion of the negotiations, with the possible postponement of compensation payments until income from the dam is obtained from the sale of electricity. The authorities of the other river regions have not managed to obtain official recognition. The mayor, who openly supports URRRA S.A., fears that the majority of the communities will demand an ethnically determined development plan ensuring the replacement of their subsistence basis - in this case, protein.
4. The Society for Threatened Peoples appeals to the Commission on Human Rights:
 - (a) To demand that the Government of Colombia reinstate the right of the Embera-Katio of Alto-Sinú (Córdoba, Colombia) to choose their authorities and representatives. Concretely, the mayor of Tierralta (Córdoba) should not be allowed to delay further official acknowledgement of the indigenous representatives (Cabildos) of the river regions of Sinú and Verde in the Iwagado and Karagabí reserves;

(b) To call upon the Minister of the Environment of Colombia not to grant permission for the dam to start functioning until negotiations with all the Embera-Katío authorities have led to a satisfactory outcome;

(c) To call upon the Colombian authorities no longer to accept the non-observance by URRRA S.A. of the Constitutional Court judgement;

(d) To demand that the Government of Colombia guarantee the human rights of these indigenous people, so that no more indigenous leaders die because they do not agree with the actions of URRRA S.A.;

(e) To request the Government of Colombia to function as guarantor of the compensation negotiated between the Embera-Katío and URRRA S.A.



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SPECIFIC GROUPS AND INDIVIDUALS

OTHER VULNERABLE GROUPS AND INDIVIDUALS

Written statement submitted by the Society for Threatened Peoples,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[15 February 1999]

Former concentration camp prisoners and other heavily traumatized war refugees from Bosnia in Germany without protection

1. For weeks, the Society for Threatened Peoples has been receiving calls for help from former concentration camp prisoners from Bosnia, whose residence in Germany is only secure for a few more weeks or even days. Approximately 900 former concentration camp prisoners from Bosnia and their family members are still in Germany; in addition there are numerous heavily traumatized war refugees, including many women who were victims of systematic rape. Most of these refugees are being put under administrative pressure to return "voluntarily". Those who do not leave the country are threatened with deportation. Only the few who are classified as "hardship cases" are able to stay temporarily.

2. The threat of deportation produces fear and panic in those concerned. The traumas already endured surface once again. Most refugees come from the Serbian controlled part of Bosnia, the "Republica Srpska". They cannot return there because they are not wanted as members of the Bosniak or Croatian peoples and because there are still war criminals in positions of responsibility there. All that remains for them is a second refugee existence in the Muslim part of the Bosnian-Croatian Federation - for those traumatized, a cruel and unreasonable prospect. In this 27 per cent of the total Bosnian territory, catastrophic humanitarian conditions prevail, especially as an additional 15,000 Albanian refugees from Kosovo have sought refuge there in recent months.

3. The traumatized Bosnian war refugees and former concentration camp prisoners urgently need security of residence in Germany for their recovery.

Background

4. "Hamdo learnt what it means to live in continual fear of one's life in Keraterm. ... Those who survived the nightly mistreatment, were dragged back to the hall like cattle. Some of the victims lay on their pallet for days until they died. No one helped them, because it was forbidden even to come close to the tormented" (from a report about a prisoner in the Keraterm concentration camp in Bosnia). Whoever has experienced such things is scared for life. Several thousand victims were murdered in the concentration camps of Keraterm, Manjaca, Omarska, Trnopolje, Luka Brcko and other camps.

5. Most neighbouring European States offered the former concentration camp prisoners and other traumatized people from Bosnia a long-term residence permit. Germany has left them in continual insecurity until today. The criteria for recognition as a "hardship case" is very narrowly defined: the refugees must be undergoing psychotherapeutic medical treatment. In some regions of Germany it is required that this treatment must have been carried out continuously since December 1995 or January 1996. Many of the former concentration camp prisoners do not fulfil these requirements. Some have repressed the terrible suffering in the concentration camps and not sought medical help. Others wanted to undertake treatment, but were not able to find a place in therapy or failed to take it up because it was not clear who would

bear the cost. The future is uncertain even for those recognized as "hardship cases". It has not yet been decided whether they will be granted a long-term residence permit.

6. The Society for Threatened Peoples appeals to the Commission on Human Rights to call upon the Government of Germany to resolve immediately the problem of residence permits for former concentration camp prisoners and other traumatized war refugees from Bosnia who are still living in Germany. Time is short because some of those concerned are already being forced to return.

7. The Society for Threatened Peoples asks the Commission:

To point out to the Government of Germany the special need for protection of these groups;

To call upon the Government of Germany to grant long-term residence permits to former concentration camp prisoners and other traumatized people from Bosnia who are not in a position to return to their country.

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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by Human Rights Advocates, a
non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[18 February 1999]

Adverse effects of the illicit movement and dumping of toxic and dangerous products and waste on the enjoyment of human rights

1. Human Rights Advocates (HRA), in conjunction with Natural Heritage Institute (NHI), 1/ submit this written statement to the Commission on Human Rights. The statement is an addendum to a larger report that HRA/NHI has submitted to aid the Special Rapporteur in her investigations of the illicit transport and dumping of toxic and dangerous substances.
2. Ms. Fatma Zhora-Ksentini who was appointed as Special Rapporteur to study and recommend solutions concerning the adverse effects of the illicit transboundary transport and dumping of toxic substances on the enjoyment of human rights, has submitted several reports documenting numerous cases that illustrate the ongoing problem. 2/ While her mandate has successfully brought international attention to the illegal transboundary movement and dumping of toxic and dangerous substances and its impact on human rights, there is an urgent need to expand her mandate to focus on the overarching issue of human rights and the environment.
3. The transport and dumping of harmful substances endanger human rights and the environment. In many instances, information regarding the handling of dangerous substances is either concealed or inaccurate, so that people are unknowingly exposed to the hazard. As a result, people may be injured, become sick or die. Such outcomes constitute violations of universally observed human rights: the rights to life, health, information, participation, a safe working and living environment, and safe water and food supplies. The violations occur whether the transport is between or within countries, legal or illegal.
4. While some international safeguards have been developed to address the transport of hazardous substances, they are limited in their effectiveness. The Basel and Bamako Conventions are designed to encourage safe management and transport of hazardous substances. However, many countries have not ratified the Basel Convention, which entered into force in 1992. The Bamako Convention, designed to protect African States from the adverse effects of hazardous substance transportation, is not in force. Neither of the Conventions addresses fully the human rights violations that result from the movement of hazardous substances. Both focus on the cross-border movement of hazardous substances and, as a result, ignore environmental and human rights abuses that may exclusively occur within a country. In addition, recourse is only offered against Governments, not the multinational corporations that are often responsible for the transportation and generation of these wastes. The Conventions' inefficiencies are exacerbated in many countries that lack the capacity either to classify or manage hazardous substances.
5. HRA/NHI have provided documentation to the Special Rapporteur demonstrating worldwide environmental abuses and human rights violations.
 - (a) The following cases involve the illicit transboundary movement of toxic substances:
 - (i) Recently, Cambodia discovered 3,000 tons of mercury-tainted waste that had been generated by a Taiwanese company and

transported from Taiwan to Cambodia for disposal. 1/ Several illnesses and deaths appear to be linked to the disposal of the wastes; villagers near the disposal site complained of diarrhoea 4/ and dizziness. 5/ After cleaning the ship that had transported the waste, one dock worker died and four were hospitalized with symptoms resembling mercury poisoning. 6/ Unconfirmed reports claim that one citizen died while protesting against officials who allegedly allowed the wastes into Cambodia. 7/ Four people died in road accidents while fleeing the contaminated area. 8/

- (ii) During the late 1980s, large quantities of highly toxic substances were secretly shipped from Italy to Lebanon for disposal. They were distributed to the Lebanese public as reusable substances and dumped in several sites throughout Lebanon. Scientific tests have determined that the materials are 100 per cent toxic. Doctors in Lebanon determined that people suffered severe health effects from contact with the substances. 9/ Despite partial clean-up efforts, recent scientific tests indicate that the hazardous materials remain in the soil and continue to threaten the health of the people living and working near the disposal sites. 10/

- (iii) The Chernobyl disaster of 1986 led to the illicit export of radioactive dairy products worldwide. 11/ Despite increased measures by some countries and organizations to prevent the export of radioactive dairy products, radioactive food was found in consumer markets throughout the world as recently as 1993. 12/ The radiation levels of some food products registered up to 10 times the permissible limit set by the World Health Organization and the European Union. 13/ Ingestion of those radioactive products may have caused birth defects and cancer in humans. 14/ Unfortunately, the health effects suffered by those who ingested the radioactive products are difficult to trace because the diseases caused by radiation exposure have long incubation periods. 15/

(b) The following cases demonstrate the need to expand the Special Rapporteur's mandate to include human rights and the environment:

- (i) The shipbreaking industry involves the transport of retired ships to shipyards for destruction. The ships are disassembled into components, often manually. The process is extremely dangerous to human health as most of the ships contain highly toxic materials known to cause cancer, asbestosis and birth defects. Unfortunately, many labourers are unaware of the health consequences, and many countries receiving toxic ships do not have adequate regulations or enforcement mechanisms to protect labourers from exposure to these toxins. Consequently, workers have suffered severe health consequences from participating in shipbreaking. 16/

Although the transport of toxic ships involves the transboundary movement of hazardous substances, the shipbreaking process is not governed by the Basel Convention and does not fall within the scope of the Special Rapporteur's current mandate, since the transport of the toxic ships is legal.

- (ii) In Canazas, Panama, a Canadian mining operation is producing and disposing cyanide wastes in the town centre. Evidence suggests that several people have become seriously ill from exposure to the cyanide fumes and ingestion of cyanide contaminated food and water. There have been local reports of leukaemia, skin irritation, headaches, visual problems and nausea. ^{17/} Since the mine's hazardous waste does not involve transboundary movement, the Special Rapporteur is not authorized under her mandate to investigate this problem.
- (iii) Chevron, a United States petroleum corporation operating in Angola has been releasing its contaminated drums to the local community. HRA/NHI reported Chevron's dangerous practice to the Commission last year during its fifty-fourth session. ^{18/} If the Special Rapporteur's mandate were expanded to include human rights and the environment, she could investigate this matter.

6. In the light of these continuing problems, HRA/NHI recommend that the Commission:

(a) Consistent with the suggestion of the Bureau of the Commission on Human Rights, expand the Special Rapporteur's mandate to human rights and the environment;

- (i) The expansion of the mandate would enable the Rapporteur to investigate matters involving not only the illicit, but the legal transboundary transport of hazardous and dangerous products that threaten the environment and human rights, as in the case of shipbreaking;
- (ii) Expanding the mandate would enable the Rapporteur to investigate matters involving the creation of harmful substances within a country by a foreign corporation; the Canadian mine in Panama and Chevron in Angola are two examples.

(b) Create a mechanism to compensate the families of victims and victims who have been injured owing to the transport and dumping of hazardous substances;

- (i) Develop a liability scheme to determine the type of compensation victims should receive and penalties for human rights violations;

- (ii) Establish a compensation fund to pay for damage to human health and loss of income.

(c) Recommend to the Secretariat for the Basel Convention that ships containing substances be included as "toxic wastes" subject to the Basel Convention regulations.

7. HRA/NHI recommend that the Special Rapporteur:

(a) Conduct investigations concerning the health and safety problems suffered by labourers in the shipbreaking industry;

- (i) Identify the regulations needed to protect shipbreakers from the dangers of the industry;
- (ii) Collaborate with the World Health Organization and International Labour Organization to investigate health and safety hazards and develop universal safety standards for the industry;
- (iii) Recommend minimum precautionary measures for exporting countries to adopt (for example, warning labels on hazardous materials).

(b) Investigate the sites in Lebanon that still contain toxic materials shipped from Italy;

- (i) Recommend additional measures to decontaminate soil at these sites at the expense of the parties responsible;
- (ii) Test groundwater and aquifers near sites to determine whether drinking water is contaminated with the toxic substances.

(c) Investigate reports of the transport of radioactive dairy products following the 1986 Chernobyl disaster and the human rights violations that occurred as a result;

- (i) Encourage the development of universal standards limiting the export of radioactive foods and establishing maximum acceptable levels of radioactivity in food fit for human consumption;

(d) Support the clean-up and removal of mercury-tainted waste in Cambodia and recommend compensation for damages directly caused by the wastes,

(e) Examine the local health impact of the mining operations in Canazas, Panama;

- (i) Test groundwater and local river for cyanide contamination;
- (ii) Conduct air quality tests for cyanide concentration level.

Notes

1/ Natural Heritage Institute is a non-profit, non-governmental organization which provides counselling and advocacy for public interest organizations and governmental institutions on natural resource problems, including international conservation and human rights.

2/ See E/CN.4/1996/17, E/CN.4/1997/19, E/CN.4/1998/10 and Add.1 and 2.

3/ Chris Fontaine, "Test shows Taiwan waste very toxic", Associated Press, 25 December 1998.

4/ Huw Watkin, "Fears of imported toxic waste spreading", South China Morning Post, 17 December 1998.

5/ Chhay Sopha, "Three killed in accidents fleeing toxic waste are", Reuters, 21 December 1998.

6/ Chris Fontaine, "Cambodia waste no immediate threat", Associated Press, 28 December 1998.

7/ Idem.

8/ Ker Munthit, "Cambodian dumping probe moves on", Associated Press, 25 December 1998.

9/ Fouad Hamden, "Waste trade in the Mediterranean, toxic attack against Lebanon: case one, toxics from Italy", Greenpeace Mediterranean, August 1996.

10/ Fouad Hamden, "Lebanese quarry contaminated by toxic waste is reactivated", Greenpeace Mediterranean, 13 January 1998.

11/ "Summing up the consequences of the accident", International Conference: One Decade After Chernobyl, Vienna, Austria, 8-12 April 1996, p.6.

12/ "Nestle ordered to return radioactive milk", Reuters North American Wire, 27 November 1993.

13/ Daniel Egger, "West Germany pours hot milk: Chernobyl's cup runneth over", The Nation, 28 March 1987, vol.44, p.392; See also "Bonn to destroy radioactive milk at centre of scandal", Reuters North European Service, 4 February 1987.

14/ Idem.

15/ Daniel Egger, "West Germany pours hot milk: Chernobyl's cup
runneth over", The Nation, 28 March 1987, vol.44. p.392.

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ships?", The Baltimore Sun, 9 December 1997.

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Tailings, 7 October 1998, vol.3, No.19, p.3.

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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE

VIOLENCE AGAINST WOMEN

Written statement submitted by Human Rights Advocates, a non-governmental
organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[18 February 1999]

Violence against women and the right to adequate housing

1. A majority of the world's 1 billion people living in conditions of abject poverty are women. They make up the plurality of the world's 50,000 inhabitants who die daily from disease resulting from inadequate housing. They live without access to secure shelter, sanitary water and food, or sufficient services. Denied any right to rent or to own land or property, millions of women are dependent upon marriage to obtain adequate housing. 1/
2. These insecure and inadequate living conditions contribute to and can be the cause or result of violence against women. 2/ Though violence against women does not differentiate between rich and poor, when experienced by women with minimal economic independence or access to adequate housing, it has a strong and devastating effect. Women must face the choice between being homeless or being beaten.
3. While housing and violence against women have been addressed, 3/ the relationship between the two factors has not been thoroughly examined. Ms. Radhika Coomaraswamy, the Special Rapporteur on violence against women, has been requested by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study the relationship between violence against women and their lack of adequate housing and security of tenure. 4/
4. Human Rights Advocates (HRA) supports this recommendation in encouraging further research. To the extent that current information is available, HRA maintains that a causal relationship exists between the lack of adequate housing and violence against women.
5. An illustrative example of this relationship is found in the United States, where half of all homeless women experience homelessness because of high rates of domestic violence. 5/
6. In the United States, between 1.3 and 2 million people experience homelessness at least once a year, while 750,000 are homeless on any given night. One third are families with children, 75 per cent of which are headed by women. In addition, 15 to 25 per cent of the population are "single" women. 6/
7. In the United States also, 3 to 4 million women every year are battered by their husbands or partners. Almost 70 per cent of all violence against women is committed by someone the woman knows. 7/ Women in the United States are more likely to be injured by domestic violence than by automobile accidents, muggings and cancer combined, as battering accounts for one fifth to one third of all emergency room visits. 8/
8. While domestic violence is an endemic problem in the United States, cutting across lines of economic status, domestic violence rates are five times higher among families below the poverty line. In supported or public housing, it is reported that 17 to 70 per cent of all mothers may be victims of abuse. 9/ This puts already poorly housed women at an even greater risk.
9. An average of 50 to 60 per cent of all homeless women report they are homeless because they are fleeing domestic violence. Eighty-one per cent of

all homeless women have at some time in their lives experienced either sexual or physical abuse, and 65 per cent reported physical abuse by a current partner. 10/

10. The United States has three times as many animal shelters as shelters for battered women. 11/ While many women do flee to State-run or community-based shelters, of those, over 30 per cent return to their abusers. Sixty per cent of those who return do so because of a lack of adequate and affordable housing. 12/

11. Shelters often have stay limits or a lack of beds, which results in as many as 59 per cent of women seeking shelter there being turned away. Other shelters only house mothers, sending the children to another facility, separating the battered wife from her children. Still others are not secure, poorly maintained or in dangerous neighbourhoods. These factors often make a woman have to find alternate housing, live on the street or return home to her batterer. 13/

12. Shelters which provide an intricate system of care, with intensive support systems, such as housing assistance, child care, and abuse and legal counselling, offer women the best step towards stability. Aiding women to find adequate long-term housing or, alternatively, allowing longer shelter stays with services is needed, so that victims can recover from abuse and gain independence. 14/

13. The United States experience provides a clear example of the correlation between lack of adequate housing and violence against women, and may provide the world with an indicative guide as to how to deal with this problem. Women, because of their gender, have been accorded a lower status in society; this is manifested in extreme violations of their rights. Throughout the world, women face inadequate housing situations, with lack of property rights or security of tenure, breeding dependence upon often abusive spouses and partners. High domestic violence rates worldwide augment this problem, revealing a reciprocal relationship between housing and violence.

14. The prevalence of domestic violence in the United States reflects a worldwide problem. Examples of some of the worst cases are: 15/

(a) Bangladesh, Brazil, Kenya and Thailand, murders of women committed by current or former partners account for 50 per cent of all female deaths reported;

(b) Spousal abuse is pervasive in such countries as Chile, Ecuador, Sri Lanka and Tanzania, at a rate of 60 per cent;

(c) Severe and systematic violence occurs in at least five of every hundred marriages in Britain. In Ireland, 40 per cent of all non-political deaths reported in 1991-1992 were the result of domestic violence. 16/

15. There is also a shortage of shelters for women who are escaping batterers in countries other than the United States. In the United Kingdom, a shelter in the south-west of England was only able to help one fourth of the women referred to it "in desperate need of help". 17/ In Brazil, where

80 per cent of the 13,000 reported assaults on women are by a domestic partner, there are only six shelters for victims of domestic violence. In Nigeria, there are no reported shelters or services to protect victims of domestic violence. 18/

16. In many countries, women have neither the right to the home in which they were born nor the right to the house in which they live a married life. A woman's access to land and property is dependent upon marriage. Often, a married woman's land rights are limited to "use" rather than ownership. 19/

17. In Rwanda, a woman cannot buy or sell property, enter into contracts, or even open a bank account without the written consent of her husband. These women are completely at the whim of their spouses. 20/

18. In many countries in Africa, a woman is viewed under customary law as a minor and has no right to any property, her husband has total control over it. Even modern civil law restricts the women to land "use" only. This presents extreme hardship for the woman after a divorce, for she is not entitled to anything of value. Additionally, because of the stigma of divorce, she is often left without the support of her family. Frequently, a wife will opt against divorce and remain with her abuser, for otherwise she faces a destitute life, with no other option than prostitution for some security or guaranteed homelessness. 21/

19. In Maharashtra, a rural area of India, 60 million women are estimated to be displaced from their marital homes by their husband. It is easy for the husband to drive the wife out of the home, as all property is in his name. 22/

20. In countries where women have no rights to any housing or property, they must stay with their abuser or face destitution and homelessness. This violates women's fundamental rights, their right to ownership, their right to security of person and autonomy and their most basic right, to life.

Recommendations

21. Consistent with the Sub-Commission's recommendation in its resolution 1997/19, HRA urges the Commission to request the Special Rapporteur to include in her next report an in-depth analysis of the relationship between violence against women and violations of the right to adequate housing. If necessary, HRA requests that the Special Rapporteur's mandate be extended to allow her sufficient time to address this complex issue.

22. HRA also specifically recommends the Commission to urge Governments to consider the following:

(a) Short-term proposals:

- (i) Provide funding to women's organizations to open innovative shelters and provide ongoing services for abused women;
- (ii) Mandate cities to extend their own shelter services to address specifically the needs of abused women;

- (iii) Increase awareness among police and other officials that domestic violence is a problem;
 - (iv) Expedite the processing of abused women's applications for government-assisted housing;
 - (v) Increase landlord cooperation in renting to women;
 - (vi) Encourage women to form communal garden plots and farms;
- (b) Long-term proposals
- (i) Abolish traditional conceptions and practices which promulgate women's subordinate position to and dependence upon men;
 - (ii) Enact property laws favourable to women owning and securing land and housing;
 - (iii) Enact credit laws that enable women to secure credit on their own;
 - (iv) Enact criminal laws which punish the abuser and protect the victim. Laws should facilitate the execution and enforcement of protection orders, requiring the abuser, not the victim, to leave the home. Defences of provocation should not be allowed, and women should be allowed to testify in court against their abuser.

Notes

1/ Sehgal, N., Women, Housing and Human Settlements, Ess Ess Publishing, New Delhi 1995, pp. 9-11.

2/ The right to adequate housing: final report submitted by Mr. Rajindar Sachar, Special Rapporteur (E/CN.4/Sub.2/1995/12), paras. 45-49.

3/ Resolution 1997/19 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, entitled "Women and the right to adequate housing and to land and property".

4/ Ibid., para. 8, recommending the Special Rapporteur to study the relationship between violence against women and their lack of housing and property rights.

5/ The Violence Against Women Act of 1990: Hearings on S. 2754, Senate Comm. On the Judiciary, Report 101-545, 101st Cong., 2nd Sess. 37 (1990). [Judiciary Hearings, 1990]

6/ "Housing link: unlocking the door III: a call to action by the Women and Housing Task Force: homeless women", McAuley Institute, September 1996.

7/ Bachman Ph.D., United States Department of Justice, Bureau of Justice Statistics, "Violence against women: a national crime victimization survey report", January 1994.

8/ Zorza, Joan, "Women battering: a major cause of homelessness", National Center on Women and Family Law, New York, 1991.

9/ See, for example, Bassuk and Rosenberg, "Why does homelessness occur? A case control study", 78 Am. J. Pub. Health 7, 783 (1988).

10/ Bassuk, Shari S. and Browne, Angela, "Intimate violence in the lives of homeless and poor housed women: prevalence and patterns in an ethnically diverse sample", reprinted with permission from the American Journal of Orthopsychiatry, vol. 67, No. 2, April 1997.

See also, "Measuring the costs of domestic violence against women: research in brief", Institute for Women's Policy Research, Washington D.C., March 1997.

11/ See Judiciary Hearings, 1990.

12/ See, for example, Zorza, Joan, "Women battering: a major cause of homelessness", National Center on Women and Family Law, New York, 1991.

13/ See, for example, "Home sweet home: Meeting the needs of homeless battered women in San Francisco", report of study conducted by Woman Inc.: Women Organized to Make Abuse Non-Existent, May 1991.

14/ "A report on domestic violence shelters in the city and the county of Los Angeles", prepared for the City of Los Angeles Housing Department, by Shelter Partnership, Inc., Los Angeles, January 1997. Those shelters which displayed the listed characteristics seem to have the best response from the women and the best overall success rates.

15/ Neft, Naomi and Levine, Levine, Where Women Stand: an international Report on the Status of Women in 140 Countries, 1997-1998, Random House, New York, 1997. Overall, about three fourths of all countries studied revealed a degree of domestic violence. Rates of domestic violence varied, depending upon the reporting mechanism and the willingness of the country to acknowledge domestic violence as a problem. Certain countries, however, such as the Ivory Coast, Laos, Madagascar, Myanmar, Singapore and Yemen reported very rare instances of domestic violence. Here, wife abuse was not seen as socially acceptable and carried with it severely harsh penalties.

16/ Taylor, Christine, "Northern Ireland, the policing of domestic violence in nationalist communities", 10 Wis. Women's L.J. 307, 1995.

17/ Halos, G., Malos, E., "Domestic violence - action for change", 1993, reprinted in part at <http://home.cybergrl.com/dv/body.html>. In a local authority in the United Kingdom with a population of over a million people, there are a mere 19 refuge spaces. However, some countries did report that steps are being taken to combat domestic violence. In Brazil, for example, women-staffed police stations have reduced the incidence of domestic violence and in Zimbabwe, the Mussasa project counsels women about abuse and sensitizes police to their needs. (Facts gained from Development in Practice: Toward Gender Equality, 1995, A World Bank Publication, Washington, D.C.)

18/ See, Neft, Naomi and Levine, Levine, Where Women Stand: An International Report on the Status of Women in 140 Countries, 1997-1998, Random House, New York, 1997.

17/ See, for example, Development in Practice: Toward Gender Equality. A World Bank Publication, World Bank, Washington, D.C., 1995.

20/ Tomasevski, Katarina, Women and Human Rights, Zed Books, London, 1995, pp. 37-39.

21/ Ibid., see also Armstrong, Alice and Mcube, Welshman, eds. Women and Law in Southern Africa. Zimbabwe Publishing House, Harare, 1987.

22/ Lohia, Shaila, "Domestic violence in rural areas", in Kudchedkar, Shirin, Al-Jesa, Sabiha, eds., Violence against Women, Women against Violence, Pencraft International, Delhi, 1998.



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SPECIFIC GROUPS AND INDIVIDUALS:
MIGRANT WORKERS

Written statement submitted by Human Rights Advocates,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[18 February 1999]

Violations of migrant workers' rights

1. As migrant workers cross borders worldwide, they become vulnerable to abuses of their human rights including the fundamental right to life. Human Rights Advocates (HRA) and groups have submitted numerous reports describing violations of migrant workers' rights for many years, but little has been accomplished towards redressing those violations. Meanwhile, the number of migrant workers who lose their lives as they try to cross borders continues to increase. The purpose of this statement is to update previous submissions by HRA to the Commission in an effort to draw increased attention to the situation of migrant workers ^{1/} and to offer concrete suggestions in an effort to promote and protect the rights of migrants while the 1990 Convention remains ineffective. Although violations around the world will be addressed, in view of the fact that HRA has most access to information in the United States, this statement will focus on migrant worker abuses as they occur along the 2,000 mile United States-Mexican border.
2. Migrants crossing borders are subjected to a number of life-threatening factors, including border patrol agents, smugglers and harsh environmental conditions.
3. The United States Border Patrol, the enforcement arm of the Immigration and Naturalization Service, is permitted to use deadly force in self-defence or in situations calling for the defence of another. Although these guidelines fall within internationally accepted norms aimed at protecting borders, they are often ignored. ^{2/}
4. After a three-year hiatus in fatal shootings along the California-Mexican border, two undocumented individuals were shot and killed by border patrol agents and two more were wounded this past year. The agents involved in these incidents have been placed on paid administrative leave pending further investigation by the Federal Bureau of Investigation (FBI). ^{3/} What will result from the investigation is yet unknown, but it is anticipated that the incidents will slowly fade from memory and the agents will be back at work in the near future. ^{4/}
5. The perpetration of human rights violations by smugglers is prevalent as well. A smuggler will often charge an undocumented individual thousands of dollars to guide him individually or with a group across the border. Once across the border, it is not unusual for the smuggler to abandon the migrants in the desert without water or hold them captive in so-called "safe houses" until they work off their transportation fees. In an effort to conceal illegal entry, smugglers have also been known to shove dozens of people into railroad boxcars that become virtual ovens when temperatures rise above 100 degrees Fahrenheit. ^{5/}
6. With the recent increase in United States Border Patrol agents, migrants are being forced to take desperate measures in seeking out alternative and thus more dangerous routes of entry. Many migrants fail to make it across the border and instead drown in rough or deep waters or die of heat exhaustion or dehydration in their attempts. Because these "environmental deaths" occur

only one or two at a time, they are rarely noticed. Collectively, however, these deaths have become so frequent in recent years that these individuals have come to be known as "the disappeared". 6/

7. To make matters worse, once the bodies of migrants are found, the Government buries the individual without any type of ceremony or notification to family members. 7/ Many of the migrants' bodies are never registered with United States vital records. Because of the informal procedures in handling the bodies of migrants, the actual number of migrants who die each year is uncertain. 8/ In addition, owing to the costs involved in conducting autopsies, an accurate assessment of the cause of death in many cases is impossible. 9/

8. Several factors have resulted in an increase of human rights violations against migrants in the United States. Most significantly, in an attempt to decrease the number of undocumented individuals in the United States, the Government has passed legislation calling for a significant increase in Border Patrol agents and the erection of fences along the United States-Mexican border. 10/ The Mexican Consulate has reported that in the four years since the implementation of Operation Gatekeeper, 345 migrants have died while attempting to cross the California-Mexico border. Deaths reported in 1998 are up from those reported in 1997. In 1997, 37 migrants died in San Diego county; in 1998, 38 died. In 1997, 52 migrants died in Imperial county; in 1998, 98 died. 11/ (The majority of persons crossing into California from Mexico enter through these two adjoining counties.)

9. Elsewhere, other migrants also suffer in their attempts to cross borders. Mexico has steadily increased the strength of its military forces along its border with Guatemala in order to reduce the number of migrants coming from Central America on their way to the United States. 12/ As a result, reported human rights violations have increased. 13/ Reports indicate that immigration officials have robbed, beaten and even killed individuals trying to make their way into Mexico for economic and social reasons. 14/

10. In South Africa, steps are being implemented to stop the influx of migrants from neighbouring countries who come to South Africa in an effort to better their lives. Once they have arrived in South Africa, migrants must deal with strong xenophobic sentiment. Attacks on foreign street vendors by native street vendors have been reported. 15/

11. Amnesty International reports that migrants held in Japanese jails and immigration detention facilities risk being beaten, humiliated and/or sexually assaulted by immigration officials and prison guards. The report cites 18 cases that suggest a pattern of cruel and degrading treatment of foreign detainees. 16/

12. Saudi Arabia, a major importer of foreign labour, gives employers tremendous power over their foreign workers by placing significant restrictions on workers' freedom of movement while offering almost no avenues for redress of abuses. Migrant workers are forced to accept low wages or are not paid at all. In many cases, employers confiscate workers' passports, which gives rise to conditions of forced labour. Women workers are especially vulnerable to forced labour, as well as physical and sexual abuse. 17/

14. It is critical for the protection of migrant workers' rights that the working group of intergovernmental experts on the human rights of migrants be able to take concrete steps to address reported human rights violations while the 1990 Convention remains ineffective. In an effort to address the egregious human rights violations occurring at borders and in the workplace, as described in this statement, Human Rights Advocates respectfully suggests that the Working Group make the following recommendations to all countries:

(a) Establish grievance procedures to address border patrol violations against migrant workers and their families which include the following components:

A worldwide code of conduct regulating border patrol agents' conduct in confrontational and other related situations;

An inquiry procedure for investigative action once a complaint is lodged by a victim to decide whether criminal and/or civil action is warranted;

If determined to be warranted, the availability of criminal liability and civil liability that would extend beyond reprimand or dismissal of a border agent for human rights violations; and

Joint effort with consular offices along respective borders to aid migrants in processing claims of abuse.

(b) Establish a programme to offer protection to migrant workers who file complaints against traffickers, including protection from criminal liability and expulsion;

(c) Implement programmes to better identify migrant workers who die as a result of exposure to the environment, including the systematic recording of migrant deaths through a centralized agency, volunteer programmes for morticians, proper autopsies, and the use of photography and/or forensic evidence if immediate identification of the deceased is not possible;

(d) Ensure that worker protection under domestic labour law applies to all categories of employment in which migrant workers are found, including domestic service;

(e) Ensure that foreign consular officials are fully knowledgeable about the rights and difficulties of migrant workers and have procedures in place to help their own nationals in need, regardless of their status;

(f) Adopt a policy to protect all workers, including undocumented workers, who wish to bring charges against abusive employers.

15. In addition to encouraging States to take action on the domestic front, Human Rights Advocates strongly urges the Commission to take immediate action towards implementing a monitoring and investigative mechanism which would address allegations of abuses of the human rights of migrant workers. Owing to a strong lack of political will, there is currently no effective international effort aimed at addressing specific violations of migrant workers rights, despite their very serious nature. It is widely recognized

that all individuals, wherever they may live, are entitled to the fundamental rights articulated in the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights. Furthermore, the right to life is the most precious and fundamental of all human rights.

16. Accordingly, in view of the lack of adequate protection, it is incumbent on the Commission on Human Rights to address the thousands of violations of the basic human rights of migrants that occur every year. To that end, Human Rights Advocates applaud the Working Group's expressed interest in designating a Special Rapporteur or independent expert to assist in monitoring and strengthening the existing system. We believe that a Special Rapporteur would be extremely helpful in addressing specific human rights violations if given the latitude needed to institute the appropriate redress. We urge the Commission to authorize either the Working Group or the Special Rapporteur to take the following additional steps which would assist it in developing the authority to investigate alleged violations:

(a) Examine the procedures developed by the Working Group on Enforced or Involuntary Disappearances, which was given investigative authority in an effort to eliminate forced disappearances; 12/

(b) Examine the procedures of the Special Rapporteur on extrajudicial, summary or arbitrary executions, who developed a system of reviewing individual cases, with the goal of providing a remedy for specific violations. 12/

Notes

1/ Written statements submitted by Human Rights Advocates: E/CN.4/AC.46/1998/3 Adds 3 and 5, and E/CN.4/1998/NGO/43.

2/ America's Watch, Brutality Unchecked: Human Rights Abuses Along the Border with Mexico, 1, 4 (1992).

3/ Ken Ellingwood, "Agents shoot man in second killing", Los Angeles Times, 29 September 1998.

4/ Idem.

5/ William Claiborne, Washington Post, 25 June 1998.

6/ Sam Howe Verhovek, "Silent deaths rise as migrants cross Mexico border", 24 August 1998, <http://www.latinolink.com>.

7/ University of Houston news release, "University of Houston finds hundreds of unknown migrants die each year", 14 March 1996, <http://www.ua.uh.edu>.

8/ Idem.

9/ Idem.

- 10/ See note 6.
- 11/ National Network for Immigrant and Refugee Rights, "More border deaths", 20 November 1998, <http://www.nnirr.org>.
- 12/ Hayes Ferguson, "Mexico tightening southern border", Rocky Mountain News, 3 March 1996.
- 13/ Idem.
- 14/ Idem.
- 15/ Mary Braid, "South Africans discover xenophobia as foreigners flood in looking for work", The Independent, London, 23 August 1997.
- 16/ "Asia - Foreigners in Japan", Migration News, vol. 4, No. 12 (December 1997), <http://www.migration.ucdavis.edu>.
- 17/ Human Rights Watch, "World report 1998 - Saudi Arabia", 4 February 1999, <http://www.hrw.org>.
- 18/ David Weissbrodt, "The three themes - Special Rapporteurs of the UN Commission on Human Rights", 80 AM.J.INT'L L. 685, 685-95 (1986).
- 19/ Frank Newman and David Weissbrodt, International Human Rights: Law, Policy and Process, (2d. ed. 1996).